

As Reported by the Senate Judiciary Committee

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Sub. H. B. No. 136

Representative Hillyer

**Cosponsors: Representatives Seitz, Weinstein, Crawley, Plummer, Leland,
Crossman, Galonski, Rogers, West, Antani, Blessing, Brent, Callender, Denson,
Ghanbari, Lepore-Hagan, Lightbody, Liston, Patton, Perales, Sheehy, Smith, K.,
Sobecki, Sykes, Upchurch**

Senators Eklund, Manning

A BILL

To amend sections 2929.02, 2929.022, 2929.024, 1
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2
2953.21, 2953.23, 2971.03, 2971.07, and 5120.61 3
and to enact section 2929.025 of the Revised 4
Code to prohibit imposing the death penalty for 5
aggravated murder when the offender had a 6
serious mental illness at the time of the 7
offense. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2929.02, 2929.022, 2929.024, 9
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21, 2953.23, 10
2971.03, 2971.07, and 5120.61 be amended and section 2929.025 of 11
the Revised Code be enacted to read as follows: 12

Sec. 2929.02. (A) Whoever is convicted of or pleads guilty 13
to aggravated murder in violation of section 2903.01 of the 14
Revised Code shall suffer death or be imprisoned for life, as 15

determined pursuant to sections 2929.022, 2929.03, and 2929.04 16
of the Revised Code, except that no person who raises the matter 17
of age pursuant to section 2929.023 of the Revised Code and who 18
is not found to have been eighteen years of age or older at the 19
time of the commission of the offense and no person who raises 20
the matter of the person's serious mental illness at the time of 21
the alleged commission of the offense pursuant to section 22
2929.025 of the Revised Code and is found under that section to 23
be ineligible for a sentence of death due to serious mental 24
illness shall suffer death. In addition, the offender may be 25
fined an amount fixed by the court, but not more than twenty- 26
five thousand dollars. 27

(B) (1) Except as otherwise provided in division (B) (2) or 28
(3) of this section, whoever is convicted of or pleads guilty to 29
murder in violation of section 2903.02 of the Revised Code shall 30
be imprisoned for an indefinite term of fifteen years to life. 31

(2) Except as otherwise provided in division (B) (3) of 32
this section, if a person is convicted of or pleads guilty to 33
murder in violation of section 2903.02 of the Revised Code, the 34
victim of the offense was less than thirteen years of age, and 35
the offender also is convicted of or pleads guilty to a sexual 36
motivation specification that was included in the indictment, 37
count in the indictment, or information charging the offense, 38
the court shall impose an indefinite prison term of thirty years 39
to life pursuant to division (B) (3) of section 2971.03 of the 40
Revised Code. 41

(3) If a person is convicted of or pleads guilty to murder 42
in violation of section 2903.02 of the Revised Code and also is 43
convicted of or pleads guilty to a sexual motivation 44
specification and a sexually violent predator specification that 45

were included in the indictment, count in the indictment, or 46
information that charged the murder, the court shall impose upon 47
the offender a term of life imprisonment without parole that 48
shall be served pursuant to section 2971.03 of the Revised Code. 49

(4) In addition, the offender may be fined an amount fixed 50
by the court, but not more than fifteen thousand dollars. 51

(C) The court shall not impose a fine or fines for 52
aggravated murder or murder which, in the aggregate and to the 53
extent not suspended by the court, exceeds the amount which the 54
offender is or will be able to pay by the method and within the 55
time allowed without undue hardship to the offender or to the 56
dependents of the offender, or will prevent the offender from 57
making reparation for the victim's wrongful death. 58

(D) (1) In addition to any other sanctions imposed for a 59
violation of section 2903.01 or 2903.02 of the Revised Code, if 60
the offender used a motor vehicle as the means to commit the 61
violation, the court shall impose upon the offender a class two 62
suspension of the offender's driver's license, commercial 63
driver's license, temporary instruction permit, probationary 64
license, or nonresident operating privilege as specified in 65
division (A) (2) of section 4510.02 of the Revised Code. 66

(2) As used in division (D) of this section, "motor 67
vehicle" has the same meaning as in section 4501.01 of the 68
Revised Code. 69

Sec. 2929.022. (A) If an indictment or count in an 70
indictment charging a defendant with aggravated murder contains 71
a specification of the aggravating circumstance of a prior 72
conviction listed in division (A) (5) of section 2929.04 of the 73
Revised Code, the defendant may elect to have the panel of three 74

judges, if the defendant waives trial by jury, or the trial 75
judge, if the defendant is tried by jury, determine the 76
existence of that aggravating circumstance at the sentencing 77
hearing held pursuant to divisions (C) and (D) of section 78
2929.03 of the Revised Code. 79

(1) If the defendant does not elect to have the existence 80
of the aggravating circumstance determined at the sentencing 81
hearing, the defendant shall be tried on the charge of 82
aggravated murder, on the specification of the aggravating 83
circumstance of a prior conviction listed in division (A) (5) of 84
section 2929.04 of the Revised Code, and on any other 85
specifications of an aggravating circumstance listed in division 86
(A) of section 2929.04 of the Revised Code in a single trial as 87
in any other criminal case in which a person is charged with 88
aggravated murder and specifications. 89

(2) If the defendant does elect to have the existence of 90
the aggravating circumstance of a prior conviction listed in 91
division (A) (5) of section 2929.04 of the Revised Code 92
determined at the sentencing hearing, then, following a verdict 93
of guilty of the charge of aggravated murder, the panel of three 94
judges or the trial judge shall: 95

(a) Hold a sentencing hearing pursuant to division (B) of 96
this section, unless required to do otherwise under division (A) 97
(2) (b) of this section; 98

(b) If the offender raises the matter of age at trial 99
pursuant to section 2929.023 of the Revised Code and is not 100
found at trial to have been eighteen years of age or older at 101
the time of the commission of the offense or raises the matter 102
of the offender's serious mental illness at the time of the 103
alleged commission of the offense pursuant to section 2929.025 104

of the Revised Code and is found under that section to be 105
ineligible for a sentence of death due to serious mental 106
illness, conduct a hearing to determine if the specification of 107
the aggravating circumstance of a prior conviction listed in 108
division (A) (5) of section 2929.04 of the Revised Code is proven 109
beyond a reasonable doubt. After conducting the hearing, the 110
panel or judge shall proceed as follows: 111

(i) If that aggravating circumstance is proven beyond a 112
reasonable doubt or if the defendant at trial was convicted of 113
any other specification of an aggravating circumstance, the 114
panel or judge shall impose sentence according to division (E) 115
of section 2929.03 of the Revised Code. 116

(ii) If that aggravating circumstance is not proven beyond 117
a reasonable doubt and the defendant at trial was not convicted 118
of any other specification of an aggravating circumstance, 119
except as otherwise provided in this division, the panel or 120
judge shall impose sentence of life imprisonment with parole 121
eligibility after serving twenty years of imprisonment on the 122
offender. If that aggravating circumstance is not proven beyond 123
a reasonable doubt, the defendant at trial was not convicted of 124
any other specification of an aggravating circumstance, the 125
victim of the aggravated murder was less than thirteen years of 126
age, and the offender also is convicted of or pleads guilty to a 127
sexual motivation specification that was included in the 128
indictment, count in the indictment, or information charging the 129
offense, the panel or judge shall sentence the offender pursuant 130
to division (B) (3) of section 2971.03 of the Revised Code to an 131
indefinite term consisting of a minimum term of thirty years and 132
a maximum term of life imprisonment. 133

(B) At the sentencing hearing, the panel of judges, if the 134

defendant was tried by a panel of three judges, or the trial 135
judge, if the defendant was tried by jury, shall, when required 136
pursuant to division (A) (2) of this section, first determine if 137
the specification of the aggravating circumstance of a prior 138
conviction listed in division (A) (5) of section 2929.04 of the 139
Revised Code is proven beyond a reasonable doubt. If the panel 140
of judges or the trial judge determines that the specification 141
of the aggravating circumstance of a prior conviction listed in 142
division (A) (5) of section 2929.04 of the Revised Code is proven 143
beyond a reasonable doubt or if they do not determine that the 144
specification is proven beyond a reasonable doubt but the 145
defendant at trial was convicted of a specification of any other 146
aggravating circumstance listed in division (A) of section 147
2929.04 of the Revised Code, the panel of judges or the trial 148
judge and trial jury shall impose sentence on the offender 149
pursuant to division (D) of section 2929.03 and section 2929.04 150
of the Revised Code. If the panel of judges or the trial judge 151
does not determine that the specification of the aggravating 152
circumstance of a prior conviction listed in division (A) (5) of 153
section 2929.04 of the Revised Code is proven beyond a 154
reasonable doubt and the defendant at trial was not convicted of 155
any other specification of an aggravating circumstance listed in 156
division (A) of section 2929.04 of the Revised Code, the panel 157
of judges or the trial judge shall terminate the sentencing 158
hearing and impose sentence on the offender as follows: 159

(1) Subject to division (B) (2) of this section, the panel 160
or judge shall impose a sentence of life imprisonment with 161
parole eligibility after serving twenty years of imprisonment on 162
the offender. 163

(2) If the victim of the aggravated murder was less than 164
thirteen years of age and the offender also is convicted of or 165

pleads guilty to a sexual motivation specification that was 166
included in the indictment, count in the indictment, or 167
information charging the offense, the panel or judge shall 168
sentence the offender pursuant to division (B) (3) of section 169
2971.03 of the Revised Code to an indefinite term consisting of 170
a minimum term of thirty years and a maximum term of life 171
imprisonment. 172

Sec. 2929.024. ~~If (A) In a case described in division (B)~~ 173
~~of this section, if~~ the court determines that ~~the defendant is~~ 174
~~indigent and that~~ investigation services, experts, or other 175
services are reasonably necessary for the proper representation 176
of a defendant charged with aggravated murder at trial or at the 177
sentencing hearing, the court shall authorize the defendant's 178
counsel to obtain the necessary services for the defendant, and 179
shall order that payment of the fees and expenses for the 180
necessary services be made in the same manner that payment for 181
appointed counsel is made pursuant to Chapter 120. of the 182
Revised Code. If the court determines that the necessary 183
services had to be obtained prior to court authorization for 184
payment of the fees and expenses for the necessary services, the 185
court may, after the services have been obtained, authorize the 186
defendant's counsel to obtain the necessary services and order 187
that payment of the fees and expenses for the necessary services 188
be made as provided in this section. 189

(B) Division (A) of this section applies in a case in 190
which either of the following apply: 191

(1) The court determines that the defendant is indigent. 192

(2) The defendant is described in division (C) of section 193
2929.025 of the Revised Code and raises the matter of the 194
defendant's serious mental illness at the time of the alleged 195

commission of the aggravated murder as described in that 196
division. 197

Sec. 2929.025. (A) As used in this section: 198

(1) A person has a "serious mental illness" if both of the 199
following apply with respect to the person, subject to division 200
(A) (2) of this section: 201

(a) The person has been diagnosed as described in division 202
(B) of this section with one or more of the following 203
conditions: 204

(i) Schizophrenia; 205

(ii) Schizoaffective disorder; 206

(iii) Bipolar disorder; 207

(iv) Delusional disorder. 208

(b) At the time of the alleged aggravated murder with 209
which the person is charged, the condition or conditions 210
described in division (A) (1) (a) of this section with which the 211
person has been diagnosed, while not meeting the standard to be 212
found not guilty by reason of insanity as defined in section 213
2901.01 of the Revised Code or the standard to be found 214
incompetent to stand trial as described in division (G) of 215
section 2945.37 of the Revised Code, nevertheless significantly 216
impaired the person's capacity to exercise rational judgment in 217
relation to the person's conduct with respect to either of the 218
following: 219

(i) Conforming the person's conduct to the requirements of 220
law; 221

(ii) Appreciating the nature, consequences, or 222

wrongfulness of the person's conduct. 223

(2) A disorder manifested primarily by repeated criminal 224
conduct or attributable primarily to the acute effects of any 225
use of alcohol or any other drug of abuse does not, standing 226
alone, constitute a "serious mental illness" for purposes of 227
division (A) (1) of this section. 228

(3) "Examiner" means a person who makes an evaluation 229
ordered under division (F) (1) of this section. 230

(4) "Prosecutor" means a prosecuting attorney who has 231
authority to prosecute a charge of aggravated murder that is 232
before the court. 233

(B) The diagnosis of a person with a condition or 234
conditions described in division (A) (1) (a) of this section may 235
be made at any time prior to, on, or after the day of the 236
alleged aggravated murder with which the person is charged or 237
the day on which the person pursuant to division (C) of this 238
section raises the matter of the person's serious mental illness 239
at the time of the alleged commission of that aggravated murder. 240
Diagnosis of the condition or conditions after the date of the 241
alleged aggravated murder with which the person is charged does 242
not preclude the person from presenting evidence that the person 243
had a serious mental illness at the time of the alleged 244
commission of that offense. 245

(C) A person charged with aggravated murder and one or 246
more specifications of an aggravating circumstance listed in 247
division (A) of section 2929.04 of the Revised Code may, before 248
trial, raise the matter of the person's serious mental illness 249
at the time of the alleged commission of the offense. If a 250
person raises the matter of the person's serious mental illness 251

at the time of the alleged commission of the offense, the court 252
shall order an evaluation of the person in accordance with 253
division (F) of this section and shall hold a pretrial hearing 254
on the matter. The person who raises the matter may present 255
evidence that the person had a serious mental illness at the 256
time of the alleged commission of the offense, and the person 257
has the burden of raising that matter and of going forward with 258
the evidence relating to the diagnosis described in division (A) 259
(1) (a) of this section and the impairment described in division 260
(A) (1) (b) of this section. 261

(D) If a person described in division (C) of this section 262
raises the matter of the person's serious mental illness at the 263
time of the alleged commission of the aggravated murder and 264
submits evidence that the person has been diagnosed with one or 265
more of the conditions set forth in division (A) (1) (a) of this 266
section and that the condition or conditions diagnosed 267
significantly impaired the person's capacity at the time of the 268
alleged offense in a manner described in division (A) (1) (b) of 269
this section, the prosecution shall have an opportunity to 270
present evidence to contest the diagnosis. The defendant has the 271
burden of proving, by a preponderance of the evidence, that the 272
person has been diagnosed with one or more of the conditions set 273
forth in division (A) (1) (a) of this section and that the 274
condition or conditions diagnosed significantly impaired the 275
person's capacity at the time of the alleged offense in a manner 276
described in division (A) (1) (b) of this section. 277

(E) (1) Unless the court at the pretrial hearing finds that 278
the defendant has proved, by a preponderance of the evidence, 279
that the person has been diagnosed with one or more of the 280
conditions set forth in division (A) (1) (a) of this section and 281
that the condition or conditions diagnosed significantly 282

impaired the person's capacity at the time of the alleged 283
offense in a manner described in division (A) (1) (b) of this 284
section, the court shall issue a finding that the person is not 285
ineligible for a sentence of death due to serious mental 286
illness. 287

(2) If the court at the pretrial hearing finds that the 288
defendant has proved, by a preponderance of the evidence, that 289
the person has been diagnosed with one or more of the conditions 290
set forth in division (A) (1) (a) of this section and that the 291
condition or conditions diagnosed significantly impaired the 292
person's capacity at the time of the alleged offense in a manner 293
described in division (A) (1) (b) of this section, the court shall 294
issue a finding that the person is ineligible for a sentence of 295
death due to serious mental illness. 296

(F) (1) If a person described in division (C) of this 297
section raises the matter of the person's serious mental illness 298
at the time of the alleged commission of the aggravated murder 299
as described in that division, the court shall order an 300
evaluation of the person. Section 2929.024 of the Revised Code 301
applies with respect to an evaluation ordered under this 302
division. 303

(2) No statement that a person makes in an evaluation 304
ordered under division (F) (1) of this section or in a pretrial 305
hearing under divisions (C) to (E) of this section relating to 306
the person's serious mental illness at the time of the alleged 307
commission of the aggravated murder with which the person is 308
charged shall be used against the person on the issue of guilt 309
in any criminal action or proceeding, but, in a criminal action 310
or proceeding, the prosecutor or defense counsel may call as a 311
witness any examiner who evaluated the person or prepared a 312

report pursuant to a referral under this section. Neither the 313
appointment nor the testimony of an examiner in an evaluation 314
ordered under division (F) (1) of this section precludes the 315
prosecutor or defense counsel from calling other witnesses or 316
presenting other evidence on the issue of the person's serious 317
mental illness at the time of the alleged commission of the 318
aggravated murder or on competency or insanity issues. 319

(G) A person's pleading of not guilty by reason of 320
insanity or incompetence to stand trial, or a finding after such 321
a plea that the person is not insane or that the person is 322
competent to stand trial, does not preclude the person from 323
raising the matter of the person's serious mental illness at the 324
time of the alleged commission of the offense pursuant to 325
division (C) of this section and, if a person so raises that 326
matter, does not limit or affect any of the procedures described 327
in this section or the authority of a court to make any finding 328
described in this section. 329

Sec. 2929.03. (A) If the indictment or count in the 330
indictment charging aggravated murder does not contain one or 331
more specifications of aggravating circumstances listed in 332
division (A) of section 2929.04 of the Revised Code, then, 333
following a verdict of guilty of the charge of aggravated 334
murder, the trial court shall impose sentence on the offender as 335
follows: 336

(1) Except as provided in division (A) (2) of this section, 337
the trial court shall impose one of the following sentences on 338
the offender: 339

(a) Life imprisonment without parole; 340

(b) Subject to division (A) (1) (e) of this section, life 341

imprisonment with parole eligibility after serving twenty years 342
of imprisonment; 343

(c) Subject to division (A)(1)(e) of this section, life 344
imprisonment with parole eligibility after serving twenty-five 345
full years of imprisonment; 346

(d) Subject to division (A)(1)(e) of this section, life 347
imprisonment with parole eligibility after serving thirty full 348
years of imprisonment; 349

(e) If the victim of the aggravated murder was less than 350
thirteen years of age, the offender also is convicted of or 351
pleads guilty to a sexual motivation specification that was 352
included in the indictment, count in the indictment, or 353
information charging the offense, and the trial court does not 354
impose a sentence of life imprisonment without parole on the 355
offender pursuant to division (A)(1)(a) of this section, the 356
trial court shall sentence the offender pursuant to division (B) 357
(3) of section 2971.03 of the Revised Code to an indefinite term 358
consisting of a minimum term of thirty years and a maximum term 359
of life imprisonment that shall be served pursuant to that 360
section. 361

(2) If the offender also is convicted of or pleads guilty 362
to a sexual motivation specification and a sexually violent 363
predator specification that are included in the indictment, 364
count in the indictment, or information that charged the 365
aggravated murder, the trial court shall impose upon the 366
offender a sentence of life imprisonment without parole that 367
shall be served pursuant to section 2971.03 of the Revised Code. 368

(B) If the indictment or count in the indictment charging 369
aggravated murder contains one or more specifications of 370

aggravating circumstances listed in division (A) of section 371
2929.04 of the Revised Code, the verdict shall separately state 372
whether the accused is found guilty or not guilty of the 373
principal charge and, if guilty of the principal charge, whether 374
the offender was eighteen years of age or older at the time of 375
the commission of the offense, if the matter of age was raised 376
by the offender pursuant to section 2929.023 of the Revised 377
Code, and whether the offender is guilty or not guilty of each 378
specification. The jury shall be instructed on its duties in 379
this regard. The instruction to the jury shall include an 380
instruction that a specification shall be proved beyond a 381
reasonable doubt in order to support a guilty verdict on the 382
specification, but the instruction shall not mention the penalty 383
that may be the consequence of a guilty or not guilty verdict on 384
any charge or specification. 385

(C) (1) If the indictment or count in the indictment 386
charging aggravated murder contains one or more specifications 387
of aggravating circumstances listed in division (A) of section 388
2929.04 of the Revised Code, then, following a verdict of guilty 389
of the charge but not guilty of each of the specifications, and 390
regardless of whether the offender raised the matter of age 391
pursuant to section 2929.023 of the Revised Code or the matter 392
of serious mental illness at the time of the commission of the 393
offense pursuant to section 2929.025 of the Revised Code, the 394
trial court shall impose sentence on the offender as follows: 395

(a) Except as provided in division (C) (1) (b) of this 396
section, the trial court shall impose one of the following 397
sentences on the offender: 398

(i) Life imprisonment without parole; 399

(ii) Subject to division (C) (1) (a) (v) of this section, 400

life imprisonment with parole eligibility after serving twenty 401
years of imprisonment; 402

(iii) Subject to division (C) (1) (a) (v) of this section, 403
life imprisonment with parole eligibility after serving twenty- 404
five full years of imprisonment; 405

(iv) Subject to division (C) (1) (a) (v) of this section, 406
life imprisonment with parole eligibility after serving thirty 407
full years of imprisonment; 408

(v) If the victim of the aggravated murder was less than 409
thirteen years of age, the offender also is convicted of or 410
pleads guilty to a sexual motivation specification that was 411
included in the indictment, count in the indictment, or 412
information charging the offense, and the trial court does not 413
impose a sentence of life imprisonment without parole on the 414
offender pursuant to division (C) (1) (a) (i) of this section, the 415
trial court shall sentence the offender pursuant to division (B) 416
(3) of section 2971.03 of the Revised Code to an indefinite term 417
consisting of a minimum term of thirty years and a maximum term 418
of life imprisonment. 419

(b) If the offender also is convicted of or pleads guilty 420
to a sexual motivation specification and a sexually violent 421
predator specification that are included in the indictment, 422
count in the indictment, or information that charged the 423
aggravated murder, the trial court shall impose upon the 424
offender a sentence of life imprisonment without parole that 425
shall be served pursuant to section 2971.03 of the Revised Code. 426

(2) (a) If the indictment or count in the indictment 427
contains one or more specifications of aggravating circumstances 428
listed in division (A) of section 2929.04 of the Revised Code 429

and if the offender is found guilty of both the charge and one 430
or more of the specifications, the penalty to be imposed on the 431
offender shall be one of the following: 432

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and 433
subject to divisions (D) (1) and (E) of this section, the 434
penalty to be imposed on the offender shall be death, life 435
imprisonment without parole, life imprisonment with parole 436
eligibility after serving twenty-five full years of 437
imprisonment, or life imprisonment with parole eligibility after 438
serving thirty full years of imprisonment. 439

(ii) Except as provided in division (C) (2) (a) (iii) of this 440
section, if the victim of the aggravated murder was less than 441
thirteen years of age, the offender also is convicted of or 442
pleads guilty to a sexual motivation specification that was 443
included in the indictment, count in the indictment, or 444
information charging the offense, and the trial court does not 445
impose a sentence of death or life imprisonment without parole 446
on the offender pursuant to division (C) (2) (a) (i) of this 447
section, the penalty to be imposed on the offender shall be an 448
indefinite term consisting of a minimum term of thirty years and 449
a maximum term of life imprisonment that shall be imposed 450
pursuant to division (B) (3) of section 2971.03 of the Revised 451
Code and served pursuant to that section. 452

(iii) If the offender also is convicted of or pleads 453
guilty to a sexual motivation specification and a sexually 454
violent predator specification that are included in the 455
indictment, count in the indictment, or information that charged 456
the aggravated murder, the penalty to be imposed on the offender 457
shall be death or life imprisonment without parole that shall be 458
served pursuant to section 2971.03 of the Revised Code. 459

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 460
(ii), or (iii) of this section shall be determined pursuant to 461
divisions (D) and (E) of this section and shall be determined by 462
one of the following: 463

(i) By the panel of three judges that tried the offender 464
upon the offender's waiver of the right to trial by jury; 465

(ii) By the trial jury and the trial judge, if the 466
offender was tried by jury. 467

(D) (1) Death may not be imposed as a penalty for 468
aggravated murder if the offender raised the matter of age at 469
trial pursuant to section 2929.023 of the Revised Code and was 470
not found at trial to have been eighteen years of age or older 471
at the time of the commission of the offense or raised the 472
matter of the offender's serious mental illness at the time of 473
the commission of the offense pursuant to section 2929.025 of 474
the Revised Code and was found under that section to be 475
ineligible for a sentence of death due to serious mental illness 476
. When death may be imposed as a penalty for aggravated murder, 477
the court shall proceed under this division. When death may be 478
imposed as a penalty, the court, upon the request of the 479
defendant, shall require a pre-sentence investigation to be made 480
and, upon the request of the defendant, shall require a mental 481
examination to be made, and shall require reports of the 482
investigation and of any mental examination submitted to the 483
court, pursuant to section 2947.06 of the Revised Code. No 484
statement made or information provided by a defendant in a 485
mental examination or proceeding conducted pursuant to this 486
division shall be disclosed to any person, except as provided in 487
this division, or be used in evidence against the defendant on 488
the issue of guilt in any retrial. A pre-sentence investigation 489

or mental examination shall not be made except upon request of 490
the defendant. Copies of any reports prepared under this 491
division shall be furnished to the court, to the trial jury if 492
the offender was tried by a jury, to the prosecutor, and to the 493
offender or the offender's counsel for use under this division. 494
The court, and the trial jury if the offender was tried by a 495
jury, shall consider any report prepared pursuant to this 496
division and furnished to it and any evidence raised at trial 497
that is relevant to the aggravating circumstances the offender 498
was found guilty of committing or to any factors in mitigation 499
of the imposition of the sentence of death, shall hear testimony 500
and other evidence that is relevant to the nature and 501
circumstances of the aggravating circumstances the offender was 502
found guilty of committing, the mitigating factors set forth in 503
division (B) of section 2929.04 of the Revised Code, and any 504
other factors in mitigation of the imposition of the sentence of 505
death, and shall hear the statement, if any, of the offender, 506
and the arguments, if any, of counsel for the defense and 507
prosecution, that are relevant to the penalty that should be 508
imposed on the offender. The defendant shall be given great 509
latitude in the presentation of evidence of the mitigating 510
factors set forth in division (B) of section 2929.04 of the 511
Revised Code and of any other factors in mitigation of the 512
imposition of the sentence of death. If the offender chooses to 513
make a statement, the offender is subject to cross-examination 514
only if the offender consents to make the statement under oath 515
or affirmation. 516

The defendant shall have the burden of going forward with 517
the evidence of any factors in mitigation of the imposition of 518
the sentence of death. The prosecution shall have the burden of 519
proving, by proof beyond a reasonable doubt, that the 520

aggravating circumstances the defendant was found guilty of 521
committing are sufficient to outweigh the factors in mitigation 522
of the imposition of the sentence of death. 523

(2) Upon consideration of the relevant evidence raised at 524
trial, the testimony, other evidence, statement of the offender, 525
arguments of counsel, and, if applicable, the reports submitted 526
pursuant to division (D)(1) of this section, the trial jury, if 527
the offender was tried by a jury, shall determine whether the 528
aggravating circumstances the offender was found guilty of 529
committing are sufficient to outweigh the mitigating factors 530
present in the case. If the trial jury unanimously finds, by 531
proof beyond a reasonable doubt, that the aggravating 532
circumstances the offender was found guilty of committing 533
outweigh the mitigating factors, the trial jury shall recommend 534
to the court that the sentence of death be imposed on the 535
offender. Absent such a finding, the jury shall recommend that 536
the offender be sentenced to one of the following: 537

(a) Except as provided in division (D)(2)(b) or (c) of 538
this section, to life imprisonment without parole, life 539
imprisonment with parole eligibility after serving twenty-five 540
full years of imprisonment, or life imprisonment with parole 541
eligibility after serving thirty full years of imprisonment; 542

(b) Except as provided in division (D)(2)(c) of this 543
section, if the victim of the aggravated murder was less than 544
thirteen years of age, the offender also is convicted of or 545
pleads guilty to a sexual motivation specification that was 546
included in the indictment, count in the indictment, or 547
information charging the offense, and the jury does not 548
recommend a sentence of life imprisonment without parole 549
pursuant to division (D)(2)(a) of this section, to an indefinite 550

term consisting of a minimum term of thirty years and a maximum 551
term of life imprisonment to be imposed pursuant to division (B) 552
(3) of section 2971.03 of the Revised Code and served pursuant 553
to that section. 554

(c) If the offender also is convicted of or pleads guilty 555
to a sexual motivation specification and a sexually violent 556
predator specification that are included in the indictment, 557
count in the indictment, or information that charged the 558
aggravated murder, to life imprisonment without parole. 559

If the trial jury recommends that the offender be 560
sentenced to life imprisonment without parole, life imprisonment 561
with parole eligibility after serving twenty-five full years of 562
imprisonment, life imprisonment with parole eligibility after 563
serving thirty full years of imprisonment, or an indefinite term 564
consisting of a minimum term of thirty years and a maximum term 565
of life imprisonment to be imposed pursuant to division (B) (3) 566
of section 2971.03 of the Revised Code, the court shall impose 567
the sentence recommended by the jury upon the offender. If the 568
sentence is an indefinite term consisting of a minimum term of 569
thirty years and a maximum term of life imprisonment imposed as 570
described in division (D) (2) (b) of this section or a sentence of 571
life imprisonment without parole imposed under division (D) (2) 572
(c) of this section, the sentence shall be served pursuant to 573
section 2971.03 of the Revised Code. If the trial jury 574
recommends that the sentence of death be imposed upon the 575
offender, the court shall proceed to impose sentence pursuant to 576
division (D) (3) of this section. 577

(3) Upon consideration of the relevant evidence raised at 578
trial, the testimony, other evidence, statement of the offender, 579
arguments of counsel, and, if applicable, the reports submitted 580

to the court pursuant to division (D) (1) of this section, if, 581
after receiving pursuant to division (D) (2) of this section the 582
trial jury's recommendation that the sentence of death be 583
imposed, the court finds, by proof beyond a reasonable doubt, or 584
if the panel of three judges unanimously finds, by proof beyond 585
a reasonable doubt, that the aggravating circumstances the 586
offender was found guilty of committing outweigh the mitigating 587
factors, it shall impose sentence of death on the offender. 588
Absent such a finding by the court or panel, the court or the 589
panel shall impose one of the following sentences on the 590
offender: 591

(a) Except as provided in division (D) (3) (b) of this 592
section, one of the following: 593

(i) Life imprisonment without parole; 594

(ii) Subject to division (D) (3) (a) (iv) of this section, 595
life imprisonment with parole eligibility after serving twenty- 596
five full years of imprisonment; 597

(iii) Subject to division (D) (3) (a) (iv) of this section, 598
life imprisonment with parole eligibility after serving thirty 599
full years of imprisonment; 600

(iv) If the victim of the aggravated murder was less than 601
thirteen years of age, the offender also is convicted of or 602
pleads guilty to a sexual motivation specification that was 603
included in the indictment, count in the indictment, or 604
information charging the offense, and the trial court does not 605
impose a sentence of life imprisonment without parole on the 606
offender pursuant to division (D) (3) (a) (i) of this section, the 607
court or panel shall sentence the offender pursuant to division 608
(B) (3) of section 2971.03 of the Revised Code to an indefinite 609

term consisting of a minimum term of thirty years and a maximum
term of life imprisonment.

(b) If the offender also is convicted of or pleads guilty
to a sexual motivation specification and a sexually violent
predator specification that are included in the indictment,
count in the indictment, or information that charged the
aggravated murder, life imprisonment without parole that shall
be served pursuant to section 2971.03 of the Revised Code.

(E) (1) If the offender raised the matter of age at trial
pursuant to section 2929.023 of the Revised Code, was convicted
of aggravated murder and one or more specifications of an
aggravating circumstance listed in division (A) of section
2929.04 of the Revised Code, and was not found at trial to have
been eighteen years of age or older at the time of the
commission of the offense, the court or the panel of three
judges shall not impose a sentence of death on the offender.
Instead, the court or panel shall impose one of the following
sentences on the offender:

~~(1)~~ (a) Except as provided in division (E) ~~(2)~~ (1) (b) of
this section, one of the following:

~~(a)~~ (i) Life imprisonment without parole;

~~(b)~~ (ii) Subject to division (E) ~~(2)~~ (d) ~~(1) (a) (iv)~~ of this
section, life imprisonment with parole eligibility after serving
twenty-five full years of imprisonment;

~~(c)~~ (iii) Subject to division (E) ~~(2)~~ (d) ~~(1) (a) (iv)~~ of this
section, life imprisonment with parole eligibility after serving
thirty full years of imprisonment;

~~(d)~~ (iv) If the victim of the aggravated murder was less
than thirteen years of age, the offender also is convicted of or

pleads guilty to a sexual motivation specification that was 639
included in the indictment, count in the indictment, or 640
information charging the offense, and the trial court does not 641
impose a sentence of life imprisonment without parole on the 642
offender pursuant to division (E) ~~(2)~~ (1) (a) (i) of this section, 643
the court or panel shall sentence the offender pursuant to 644
division (B) (3) of section 2971.03 of the Revised Code to an 645
indefinite term consisting of a minimum term of thirty years and 646
a maximum term of life imprisonment. 647

~~(2)~~ (b) If the offender also is convicted of or pleads 648
guilty to a sexual motivation specification and a sexually 649
violent predator specification that are included in the 650
indictment, count in the indictment, or information that charged 651
the aggravated murder, life imprisonment without parole that 652
shall be served pursuant to section 2971.03 of the Revised Code. 653

(2) If the offender raised the matter of the offender's 654
serious mental illness at the time of the commission of the 655
offense pursuant to section 2929.025 of the Revised Code, was 656
found under that section to be ineligible for a sentence of 657
death due to serious mental illness, and was convicted of 658
aggravated murder and one or more specifications of an 659
aggravating circumstance listed in division (A) of section 660
2929.04 of the Revised Code, the court or panel of three judges 661
shall not impose a sentence of death on the offender. Instead, 662
the court or panel shall sentence the offender to life 663
imprisonment without parole. 664

(F) The court or the panel of three judges, when it 665
imposes sentence of death, shall state in a separate opinion its 666
specific findings as to the existence of any of the mitigating 667
factors set forth in division (B) of section 2929.04 of the 668

Revised Code, the existence of any other mitigating factors, the 669
aggravating circumstances the offender was found guilty of 670
committing, and the reasons why the aggravating circumstances 671
the offender was found guilty of committing were sufficient to 672
outweigh the mitigating factors. The court or panel, when it 673
imposes life imprisonment or an indefinite term consisting of a 674
minimum term of thirty years and a maximum term of life 675
imprisonment under division (D) of this section, shall state in 676
a separate opinion its specific findings of which of the 677
mitigating factors set forth in division (B) of section 2929.04 678
of the Revised Code it found to exist, what other mitigating 679
factors it found to exist, what aggravating circumstances the 680
offender was found guilty of committing, and why it could not 681
find that these aggravating circumstances were sufficient to 682
outweigh the mitigating factors. For cases in which a sentence 683
of death is imposed for an offense committed before January 1, 684
1995, the court or panel shall file the opinion required to be 685
prepared by this division with the clerk of the appropriate 686
court of appeals and with the clerk of the supreme court within 687
fifteen days after the court or panel imposes sentence. For 688
cases in which a sentence of death is imposed for an offense 689
committed on or after January 1, 1995, the court or panel shall 690
file the opinion required to be prepared by this division with 691
the clerk of the supreme court within fifteen days after the 692
court or panel imposes sentence. The judgment in a case in which 693
a sentencing hearing is held pursuant to this section is not 694
final until the opinion is filed. 695

(G) (1) Whenever the court or a panel of three judges 696
imposes a sentence of death for an offense committed before 697
January 1, 1995, the clerk of the court in which the judgment is 698
rendered shall make and retain a copy of the entire record in 699

the case, and shall deliver the original of the entire record in 700
the case to the appellate court. 701

(2) Whenever the court or a panel of three judges imposes 702
a sentence of death for an offense committed on or after January 703
1, 1995, the clerk of the court in which the judgment is 704
rendered shall make and retain a copy of the entire record in 705
the case, and shall deliver the original of the entire record in 706
the case to the supreme court. 707

Sec. 2929.04. (A) Imposition of the death penalty for 708
aggravated murder is precluded unless one or more of the 709
following is specified in the indictment or count in the 710
indictment pursuant to section 2941.14 of the Revised Code and 711
proved beyond a reasonable doubt: 712

(1) The offense was the assassination of the president of 713
the United States or a person in line of succession to the 714
presidency, the governor or lieutenant governor of this state, 715
the president-elect or vice president-elect of the United 716
States, the governor-elect or lieutenant governor-elect of this 717
state, or a candidate for any of the offices described in this 718
division. For purposes of this division, a person is a candidate 719
if the person has been nominated for election according to law, 720
if the person has filed a petition or petitions according to law 721
to have the person's name placed on the ballot in a primary or 722
general election, or if the person campaigns as a write-in 723
candidate in a primary or general election. 724

(2) The offense was committed for hire. 725

(3) The offense was committed for the purpose of escaping 726
detection, apprehension, trial, or punishment for another 727
offense committed by the offender. 728

(4) The offense was committed while the offender was under 729
detention or while the offender was at large after having broken 730
detention. As used in division (A) (4) of this section, 731
"detention" has the same meaning as in section 2921.01 of the 732
Revised Code, except that detention does not include 733
hospitalization, institutionalization, or confinement in a 734
mental health facility or intellectual disabilities facility 735
unless at the time of the commission of the offense either of 736
the following circumstances apply: 737

(a) The offender was in the facility as a result of being 738
charged with a violation of a section of the Revised Code. 739

(b) The offender was under detention as a result of being 740
convicted of or pleading guilty to a violation of a section of 741
the Revised Code. 742

(5) Prior to the offense at bar, the offender was 743
convicted of an offense an essential element of which was the 744
purposeful killing of or attempt to kill another, or the offense 745
at bar was part of a course of conduct involving the purposeful 746
killing of or attempt to kill two or more persons by the 747
offender. 748

(6) The victim of the offense was a law enforcement 749
officer, as defined in section 2911.01 of the Revised Code, whom 750
the offender had reasonable cause to know or knew to be a law 751
enforcement officer as so defined, and either the victim, at the 752
time of the commission of the offense, was engaged in the 753
victim's duties, or it was the offender's specific purpose to 754
kill a law enforcement officer as so defined. 755

(7) The offense was committed while the offender was 756
committing, attempting to commit, or fleeing immediately after 757

committing or attempting to commit kidnapping, rape, aggravated 758
arson, aggravated robbery, or aggravated burglary, and either 759
the offender was the principal offender in the commission of the 760
aggravated murder or, if not the principal offender, committed 761
the aggravated murder with prior calculation and design. 762

(8) The victim of the aggravated murder was a witness to 763
an offense who was purposely killed to prevent the victim's 764
testimony in any criminal proceeding and the aggravated murder 765
was not committed during the commission, attempted commission, 766
or flight immediately after the commission or attempted 767
commission of the offense to which the victim was a witness, or 768
the victim of the aggravated murder was a witness to an offense 769
and was purposely killed in retaliation for the victim's 770
testimony in any criminal proceeding. 771

(9) The offender, in the commission of the offense, 772
purposefully caused the death of another who was under thirteen 773
years of age at the time of the commission of the offense, and 774
either the offender was the principal offender in the commission 775
of the offense or, if not the principal offender, committed the 776
offense with prior calculation and design. 777

(10) The offense was committed while the offender was 778
committing, attempting to commit, or fleeing immediately after 779
committing or attempting to commit terrorism. 780

(B) If one or more of the aggravating circumstances listed 781
in division (A) of this section is specified in the indictment 782
or count in the indictment and proved beyond a reasonable doubt, 783
~~and~~ if the offender did not raise the matter of age pursuant to 784
section 2929.023 of the Revised Code or ~~if~~ the offender, after 785
raising ~~the~~ that ~~matter of age,~~ was found at trial to have been 786
eighteen years of age or older at the time of the commission of 787

the offense, and if the offender did not raise the matter of the 788
offender's serious mental illness at the time of the commission 789
of the offense pursuant to section 2929.025 of the Revised Code 790
or the offender after raising that matter was found by the court 791
to not be ineligible for a sentence of death, the court, trial 792
jury, or panel of three judges shall consider, and weigh against 793
the aggravating circumstances proved beyond a reasonable doubt, 794
the nature and circumstances of the offense, the history, 795
character, and background of the offender, and all of the 796
following factors: 797

(1) Whether the victim of the offense induced or 798
facilitated it; 799

(2) Whether it is unlikely that the offense would have 800
been committed, but for the fact that the offender was under 801
duress, coercion, or strong provocation; 802

(3) Whether, at the time of committing the offense, the 803
offender, because of a mental disease or defect, lacked 804
substantial capacity to appreciate the criminality of the 805
offender's conduct or to conform the offender's conduct to the 806
requirements of the law; 807

(4) The youth of the offender; 808

(5) The offender's lack of a significant history of prior 809
criminal convictions and delinquency adjudications; 810

(6) If the offender was a participant in the offense but 811
not the principal offender, the degree of the offender's 812
participation in the offense and the degree of the offender's 813
participation in the acts that led to the death of the victim; 814

(7) Any other factors that are relevant to the issue of 815
whether the offender should be sentenced to death. 816

(C) The defendant shall be given great latitude in the 817
presentation of evidence of the factors listed in division (B) 818
of this section and of any other factors in mitigation of the 819
imposition of the sentence of death. 820

The existence of any of the mitigating factors listed in 821
division (B) of this section does not preclude the imposition of 822
a sentence of death on the offender but shall be weighed 823
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 824
Revised Code by the trial court, trial jury, or the panel of 825
three judges against the aggravating circumstances the offender 826
was found guilty of committing. 827

Sec. 2929.06. (A) (1) If a sentence of death imposed upon 828
an offender is set aside, nullified, ~~or vacated because the, or~~ 829
voided for any of the following reasons, the trial court that 830
sentenced the offender shall conduct a hearing to resentence the 831
offender in accordance with division (A) (2) of this section: 832

(a) The court of appeals, in a case in which a sentence of 833
death was imposed for an offense committed before January 1, 834
1995, or the supreme court, in ~~eases a case~~ a case in which the supreme 835
court reviews the sentence upon appeal, could not affirm the 836
sentence of death under the standards imposed by section 2929.05 837
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 838
~~the.~~ 839

(b) The sole reason that the statutory procedure for 840
imposing the sentence of death that is set forth in sections 841
2929.03 and 2929.04 of the Revised Code is unconstitutional~~r.~~ 842

(c) The sentence of death is set aside, nullified, or 843
vacated pursuant to division (C) of section 2929.05 of the 844
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 845

(d) A court has determined that the offender is a person 846
with an intellectual disability under standards set forth in 847
decisions of the supreme court of this state or the United 848
States supreme court, ~~the trial court that sentenced the~~ 849
~~offender shall conduct a hearing to resentence the offender.~~ 850

(e) The sentence of death is voided by a court pursuant to 851
division (H) of section 2953.21 of the Revised Code. 852

(2) At the a resentencing hearing conducted under division 853
(A)(1) of this section, the court shall impose upon the offender 854
a sentence of life imprisonment or an indefinite term consisting 855
of a minimum term of thirty years and a maximum term of life 856
imprisonment that is determined as specified in this division. 857
If the sentence of death was voided by a court pursuant to 858
division (H) of section 2953.21 of the Revised Code, the 859
offender has waived any right to be sentenced to any sentence 860
other than life imprisonment without parole as described in 861
division (A)(3)(b) of that section and the court shall impose a 862
sentence of life imprisonment without parole. If the immediately 863
preceding sentence does not apply and if division (D) of section 864
2929.03 of the Revised Code, at the time the offender committed 865
the aggravated murder for which the sentence of death was 866
imposed, required the imposition when a sentence of death was 867
not imposed of a sentence of life imprisonment without parole or 868
a sentence of an indefinite term consisting of a minimum term of 869
thirty years and a maximum term of life imprisonment to be 870
imposed pursuant to division (A) or (B)(3) of section 2971.03 of 871
the Revised Code and served pursuant to that section, the court 872
shall impose the sentence so required. In all other cases, the 873
sentences of life imprisonment that are available at the 874
hearing, and from which the court shall impose sentence, shall 875
be the same sentences of life imprisonment that were available 876

under division (D) of section 2929.03 or under section 2909.24 877
of the Revised Code at the time the offender committed the 878
offense for which the sentence of death was imposed. Nothing in 879
this division regarding the resentencing of an offender shall 880
affect the operation of section 2971.03 of the Revised Code. 881

(B) Whenever any court of this state or any federal court 882
sets aside, nullifies, or vacates a sentence of death imposed 883
upon an offender because of error that occurred in the 884
sentencing phase of the trial and if division (A) of this 885
section does not apply, the trial court that sentenced the 886
offender shall conduct a new hearing to resentence the offender. 887
If the offender was tried by a jury, the trial court shall 888
impanel a new jury for the hearing. If the offender was tried by 889
a panel of three judges, that panel or, if necessary, a new 890
panel of three judges shall conduct the hearing. At the hearing, 891
the court or panel shall follow the procedure set forth in 892
division (D) of section 2929.03 of the Revised Code in 893
determining whether to impose upon the offender a sentence of 894
death, a sentence of life imprisonment, or an indefinite term 895
consisting of a minimum term of thirty years and a maximum term 896
of life imprisonment. If, pursuant to that procedure, the court 897
or panel determines that it will impose a sentence other than a 898
sentence of death, the court or panel shall impose upon the 899
offender one of the sentences of life imprisonment that could 900
have been imposed at the time the offender committed the offense 901
for which the sentence of death was imposed, determined as 902
specified in this division, or an indefinite term consisting of 903
a minimum term of thirty years and a maximum term of life 904
imprisonment that is determined as specified in this division. 905
If division (D) of section 2929.03 of the Revised Code, at the 906
time the offender committed the aggravated murder for which the 907

sentence of death was imposed, required the imposition when a 908
sentence of death was not imposed of a sentence of life 909
imprisonment without parole or a sentence of an indefinite term 910
consisting of a minimum term of thirty years and a maximum term 911
of life imprisonment to be imposed pursuant to division (A) or 912
(B) (3) of section 2971.03 of the Revised Code and served 913
pursuant to that section, the court or panel shall impose the 914
sentence so required. In all other cases, the sentences of life 915
imprisonment that are available at the hearing, and from which 916
the court or panel shall impose sentence, shall be the same 917
sentences of life imprisonment that were available under 918
division (D) of section 2929.03 or under section 2909.24 of the 919
Revised Code at the time the offender committed the offense for 920
which the sentence of death was imposed. 921

(C) If a sentence of life imprisonment without parole 922
imposed upon an offender pursuant to section 2929.021 or 2929.03 923
of the Revised Code is set aside, nullified, or vacated for the 924
sole reason that the statutory procedure for imposing the 925
sentence of life imprisonment without parole that is set forth 926
in sections 2929.03 and 2929.04 of the Revised Code is 927
unconstitutional, the trial court that sentenced the offender 928
shall conduct a hearing to resentence the offender to life 929
imprisonment with parole eligibility after serving twenty-five 930
full years of imprisonment or to life imprisonment with parole 931
eligibility after serving thirty full years of imprisonment. 932

(D) Nothing in this section limits or restricts the rights 933
of the state to appeal any order setting aside, nullifying, or 934
vacating a conviction or sentence of death, when an appeal of 935
that nature otherwise would be available. 936

(E) This section, as amended by H.B. 184 of the 125th 937

general assembly, shall apply to all offenders who have been 938
sentenced to death for an aggravated murder that was committed 939
on or after October 19, 1981, or for terrorism that was 940
committed on or after May 15, 2002. This section, as amended by 941
H.B. 184 of the 125th general assembly, shall apply equally to 942
all such offenders sentenced to death prior to, on, or after 943
March 23, 2005, including offenders who, on March 23, 2005, are 944
challenging their sentence of death and offenders whose sentence 945
of death has been set aside, nullified, or vacated by any court 946
of this state or any federal court but who, as of March 23, 947
2005, have not yet been resentenced. 948

Sec. 2929.14. (A) Except as provided in division (B)(1), 949
(B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), 950
(B)(10), (B)(11), (E), (G), (H), (J), or (K) of this section or 951
in division (D)(6) of section 2919.25 of the Revised Code and 952
except in relation to an offense for which a sentence of death 953
or life imprisonment is to be imposed, if the court imposing a 954
sentence upon an offender for a felony elects or is required to 955
impose a prison term on the offender pursuant to this chapter, 956
the court shall impose a prison term that shall be one of the 957
following: 958

(1)(a) For a felony of the first degree committed on or 959
after the effective date of this amendment, the prison term 960
shall be an indefinite prison term with a stated minimum term 961
selected by the court of three, four, five, six, seven, eight, 962
nine, ten, or eleven years and a maximum term that is determined 963
pursuant to section 2929.144 of the Revised Code, except that if 964
the section that criminalizes the conduct constituting the 965
felony specifies a different minimum term or penalty for the 966
offense, the specific language of that section shall control in 967
determining the minimum term or otherwise sentencing the 968

offender but the minimum term or sentence imposed under that 969
specific language shall be considered for purposes of the 970
Revised Code as if it had been imposed under this division. 971

(b) For a felony of the first degree committed prior to 972
the effective date of this amendment, the prison term shall be a 973
definite prison term of three, four, five, six, seven, eight, 974
nine, ten, or eleven years. 975

(2) (a) For a felony of the second degree committed on or 976
after the effective date of this amendment, the prison term 977
shall be an indefinite prison term with a stated minimum term 978
selected by the court of two, three, four, five, six, seven, or 979
eight years and a maximum term that is determined pursuant to 980
section 2929.144 of the Revised Code, except that if the section 981
that criminalizes the conduct constituting the felony specifies 982
a different minimum term or penalty for the offense, the 983
specific language of that section shall control in determining 984
the minimum term or otherwise sentencing the offender but the 985
minimum term or sentence imposed under that specific language 986
shall be considered for purposes of the Revised Code as if it 987
had been imposed under this division. 988

(b) For a felony of the second degree committed prior to 989
the effective date of this amendment, the prison term shall be a 990
definite term of two, three, four, five, six, seven, or eight 991
years. 992

(3) (a) For a felony of the third degree that is a 993
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 994
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 995
Code or that is a violation of section 2911.02 or 2911.12 of the 996
Revised Code if the offender previously has been convicted of or 997
pleaded guilty in two or more separate proceedings to two or 998

more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 999
of the Revised Code, the prison term shall be a definite term of 1000
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 1001
forty-eight, fifty-four, or sixty months. 1002

(b) For a felony of the third degree that is not an 1003
offense for which division (A) (3) (a) of this section applies, 1004
the prison term shall be a definite term of nine, twelve, 1005
eighteen, twenty-four, thirty, or thirty-six months. 1006

(4) For a felony of the fourth degree, the prison term 1007
shall be a definite term of six, seven, eight, nine, ten, 1008
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 1009
or eighteen months. 1010

(5) For a felony of the fifth degree, the prison term 1011
shall be a definite term of six, seven, eight, nine, ten, 1012
eleven, or twelve months. 1013

(B) (1) (a) Except as provided in division (B) (1) (e) of this 1014
section, if an offender who is convicted of or pleads guilty to 1015
a felony also is convicted of or pleads guilty to a 1016
specification of the type described in section 2941.141, 1017
2941.144, or 2941.145 of the Revised Code, the court shall 1018
impose on the offender one of the following prison terms: 1019

(i) A prison term of six years if the specification is of 1020
the type described in division (A) of section 2941.144 of the 1021
Revised Code that charges the offender with having a firearm 1022
that is an automatic firearm or that was equipped with a firearm 1023
muffler or suppressor on or about the offender's person or under 1024
the offender's control while committing the offense; 1025

(ii) A prison term of three years if the specification is 1026
of the type described in division (A) of section 2941.145 of the 1027

Revised Code that charges the offender with having a firearm on 1028
or about the offender's person or under the offender's control 1029
while committing the offense and displaying the firearm, 1030
brandishing the firearm, indicating that the offender possessed 1031
the firearm, or using it to facilitate the offense; 1032

(iii) A prison term of one year if the specification is of 1033
the type described in division (A) of section 2941.141 of the 1034
Revised Code that charges the offender with having a firearm on 1035
or about the offender's person or under the offender's control 1036
while committing the offense; 1037

(iv) A prison term of nine years if the specification is 1038
of the type described in division (D) of section 2941.144 of the 1039
Revised Code that charges the offender with having a firearm 1040
that is an automatic firearm or that was equipped with a firearm 1041
muffler or suppressor on or about the offender's person or under 1042
the offender's control while committing the offense and 1043
specifies that the offender previously has been convicted of or 1044
pleaded guilty to a specification of the type described in 1045
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1046
the Revised Code; 1047

(v) A prison term of fifty-four months if the 1048
specification is of the type described in division (D) of 1049
section 2941.145 of the Revised Code that charges the offender 1050
with having a firearm on or about the offender's person or under 1051
the offender's control while committing the offense and 1052
displaying the firearm, brandishing the firearm, indicating that 1053
the offender possessed the firearm, or using the firearm to 1054
facilitate the offense and that the offender previously has been 1055
convicted of or pleaded guilty to a specification of the type 1056
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 1057

2941.1412 of the Revised Code; 1058

(vi) A prison term of eighteen months if the specification 1059
is of the type described in division (D) of section 2941.141 of 1060
the Revised Code that charges the offender with having a firearm 1061
on or about the offender's person or under the offender's 1062
control while committing the offense and that the offender 1063
previously has been convicted of or pleaded guilty to a 1064
specification of the type described in section 2941.141, 1065
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 1066

(b) If a court imposes a prison term on an offender under 1067
division (B)(1)(a) of this section, the prison term shall not be 1068
reduced pursuant to section 2967.19, section 2929.20, section 1069
2967.193, or any other provision of Chapter 2967. or Chapter 1070
5120. of the Revised Code. Except as provided in division (B)(1) 1071
(g) of this section, a court shall not impose more than one 1072
prison term on an offender under division (B)(1)(a) of this 1073
section for felonies committed as part of the same act or 1074
transaction. 1075

(c)(i) Except as provided in division (B)(1)(e) of this 1076
section, if an offender who is convicted of or pleads guilty to 1077
a violation of section 2923.161 of the Revised Code or to a 1078
felony that includes, as an essential element, purposely or 1079
knowingly causing or attempting to cause the death of or 1080
physical harm to another, also is convicted of or pleads guilty 1081
to a specification of the type described in division (A) of 1082
section 2941.146 of the Revised Code that charges the offender 1083
with committing the offense by discharging a firearm from a 1084
motor vehicle other than a manufactured home, the court, after 1085
imposing a prison term on the offender for the violation of 1086
section 2923.161 of the Revised Code or for the other felony 1087

offense under division (A), (B) (2), or (B) (3) of this section, 1088
shall impose an additional prison term of five years upon the 1089
offender that shall not be reduced pursuant to section 2929.20, 1090
section 2967.19, section 2967.193, or any other provision of 1091
Chapter 2967. or Chapter 5120. of the Revised Code. 1092

(ii) Except as provided in division (B) (1) (e) of this 1093
section, if an offender who is convicted of or pleads guilty to 1094
a violation of section 2923.161 of the Revised Code or to a 1095
felony that includes, as an essential element, purposely or 1096
knowingly causing or attempting to cause the death of or 1097
physical harm to another, also is convicted of or pleads guilty 1098
to a specification of the type described in division (C) of 1099
section 2941.146 of the Revised Code that charges the offender 1100
with committing the offense by discharging a firearm from a 1101
motor vehicle other than a manufactured home and that the 1102
offender previously has been convicted of or pleaded guilty to a 1103
specification of the type described in section 2941.141, 1104
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 1105
the court, after imposing a prison term on the offender for the 1106
violation of section 2923.161 of the Revised Code or for the 1107
other felony offense under division (A), (B) (2), or (3) of this 1108
section, shall impose an additional prison term of ninety months 1109
upon the offender that shall not be reduced pursuant to section 1110
2929.20, 2967.19, 2967.193, or any other provision of Chapter 1111
2967. or Chapter 5120. of the Revised Code. 1112

(iii) A court shall not impose more than one additional 1113
prison term on an offender under division (B) (1) (c) of this 1114
section for felonies committed as part of the same act or 1115
transaction. If a court imposes an additional prison term on an 1116
offender under division (B) (1) (c) of this section relative to an 1117
offense, the court also shall impose a prison term under 1118

division (B) (1) (a) of this section relative to the same offense, 1119
provided the criteria specified in that division for imposing an 1120
additional prison term are satisfied relative to the offender 1121
and the offense. 1122

(d) If an offender who is convicted of or pleads guilty to 1123
an offense of violence that is a felony also is convicted of or 1124
pleads guilty to a specification of the type described in 1125
section 2941.1411 of the Revised Code that charges the offender 1126
with wearing or carrying body armor while committing the felony 1127
offense of violence, the court shall impose on the offender an 1128
additional prison term of two years. The prison term so imposed, 1129
subject to divisions (C) to (I) of section 2967.19 of the 1130
Revised Code, shall not be reduced pursuant to section 2929.20, 1131
section 2967.19, section 2967.193, or any other provision of 1132
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1133
shall not impose more than one prison term on an offender under 1134
division (B) (1) (d) of this section for felonies committed as 1135
part of the same act or transaction. If a court imposes an 1136
additional prison term under division (B) (1) (a) or (c) of this 1137
section, the court is not precluded from imposing an additional 1138
prison term under division (B) (1) (d) of this section. 1139

(e) The court shall not impose any of the prison terms 1140
described in division (B) (1) (a) of this section or any of the 1141
additional prison terms described in division (B) (1) (c) of this 1142
section upon an offender for a violation of section 2923.12 or 1143
2923.123 of the Revised Code. The court shall not impose any of 1144
the prison terms described in division (B) (1) (a) or (b) of this 1145
section upon an offender for a violation of section 2923.122 1146
that involves a deadly weapon that is a firearm other than a 1147
dangerous ordnance, section 2923.16, or section 2923.121 of the 1148
Revised Code. The court shall not impose any of the prison terms 1149

described in division (B) (1) (a) of this section or any of the 1150
additional prison terms described in division (B) (1) (c) of this 1151
section upon an offender for a violation of section 2923.13 of 1152
the Revised Code unless all of the following apply: 1153

(i) The offender previously has been convicted of 1154
aggravated murder, murder, or any felony of the first or second 1155
degree. 1156

(ii) Less than five years have passed since the offender 1157
was released from prison or post-release control, whichever is 1158
later, for the prior offense. 1159

(f) (i) If an offender is convicted of or pleads guilty to 1160
a felony that includes, as an essential element, causing or 1161
attempting to cause the death of or physical harm to another and 1162
also is convicted of or pleads guilty to a specification of the 1163
type described in division (A) of section 2941.1412 of the 1164
Revised Code that charges the offender with committing the 1165
offense by discharging a firearm at a peace officer as defined 1166
in section 2935.01 of the Revised Code or a corrections officer, 1167
as defined in section 2941.1412 of the Revised Code, the court, 1168
after imposing a prison term on the offender for the felony 1169
offense under division (A), (B) (2), or (B) (3) of this section, 1170
shall impose an additional prison term of seven years upon the 1171
offender that shall not be reduced pursuant to section 2929.20, 1172
section 2967.19, section 2967.193, or any other provision of 1173
Chapter 2967. or Chapter 5120. of the Revised Code. 1174

(ii) If an offender is convicted of or pleads guilty to a 1175
felony that includes, as an essential element, causing or 1176
attempting to cause the death of or physical harm to another and 1177
also is convicted of or pleads guilty to a specification of the 1178
type described in division (B) of section 2941.1412 of the 1179

Revised Code that charges the offender with committing the 1180
offense by discharging a firearm at a peace officer, as defined 1181
in section 2935.01 of the Revised Code, or a corrections 1182
officer, as defined in section 2941.1412 of the Revised Code, 1183
and that the offender previously has been convicted of or 1184
pleaded guilty to a specification of the type described in 1185
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1186
the Revised Code, the court, after imposing a prison term on the 1187
offender for the felony offense under division (A), (B) (2), or 1188
(3) of this section, shall impose an additional prison term of 1189
one hundred twenty-six months upon the offender that shall not 1190
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 1191
any other provision of Chapter 2967. or 5120. of the Revised 1192
Code. 1193

(iii) If an offender is convicted of or pleads guilty to 1194
two or more felonies that include, as an essential element, 1195
causing or attempting to cause the death or physical harm to 1196
another and also is convicted of or pleads guilty to a 1197
specification of the type described under division (B) (1) (f) of 1198
this section in connection with two or more of the felonies of 1199
which the offender is convicted or to which the offender pleads 1200
guilty, the sentencing court shall impose on the offender the 1201
prison term specified under division (B) (1) (f) of this section 1202
for each of two of the specifications of which the offender is 1203
convicted or to which the offender pleads guilty and, in its 1204
discretion, also may impose on the offender the prison term 1205
specified under that division for any or all of the remaining 1206
specifications. If a court imposes an additional prison term on 1207
an offender under division (B) (1) (f) of this section relative to 1208
an offense, the court shall not impose a prison term under 1209
division (B) (1) (a) or (c) of this section relative to the same 1210

offense. 1211

(g) If an offender is convicted of or pleads guilty to two 1212
or more felonies, if one or more of those felonies are 1213
aggravated murder, murder, attempted aggravated murder, 1214
attempted murder, aggravated robbery, felonious assault, or 1215
rape, and if the offender is convicted of or pleads guilty to a 1216
specification of the type described under division (B)(1)(a) of 1217
this section in connection with two or more of the felonies, the 1218
sentencing court shall impose on the offender the prison term 1219
specified under division (B)(1)(a) of this section for each of 1220
the two most serious specifications of which the offender is 1221
convicted or to which the offender pleads guilty and, in its 1222
discretion, also may impose on the offender the prison term 1223
specified under that division for any or all of the remaining 1224
specifications. 1225

(2)(a) If division (B)(2)(b) of this section does not 1226
apply, the court may impose on an offender, in addition to the 1227
longest prison term authorized or required for the offense or, 1228
for offenses for which division (A)(1)(a) or (2)(a) of this 1229
section applies, in addition to the longest minimum prison term 1230
authorized or required for the offense, an additional definite 1231
prison term of one, two, three, four, five, six, seven, eight, 1232
nine, or ten years if all of the following criteria are met: 1233

(i) The offender is convicted of or pleads guilty to a 1234
specification of the type described in section 2941.149 of the 1235
Revised Code that the offender is a repeat violent offender. 1236

(ii) The offense of which the offender currently is 1237
convicted or to which the offender currently pleads guilty is 1238
aggravated murder and the court does not impose a sentence of 1239
death or life imprisonment without parole, murder, terrorism and 1240

the court does not impose a sentence of life imprisonment 1241
without parole, any felony of the first degree that is an 1242
offense of violence and the court does not impose a sentence of 1243
life imprisonment without parole, or any felony of the second 1244
degree that is an offense of violence and the trier of fact 1245
finds that the offense involved an attempt to cause or a threat 1246
to cause serious physical harm to a person or resulted in 1247
serious physical harm to a person. 1248

(iii) The court imposes the longest prison term for the 1249
offense or the longest minimum prison term for the offense, 1250
whichever is applicable, that is not life imprisonment without 1251
parole. 1252

(iv) The court finds that the prison terms imposed 1253
pursuant to division (B) (2) (a) (iii) of this section and, if 1254
applicable, division (B) (1) or (3) of this section are 1255
inadequate to punish the offender and protect the public from 1256
future crime, because the applicable factors under section 1257
2929.12 of the Revised Code indicating a greater likelihood of 1258
recidivism outweigh the applicable factors under that section 1259
indicating a lesser likelihood of recidivism. 1260

(v) The court finds that the prison terms imposed pursuant 1261
to division (B) (2) (a) (iii) of this section and, if applicable, 1262
division (B) (1) or (3) of this section are demeaning to the 1263
seriousness of the offense, because one or more of the factors 1264
under section 2929.12 of the Revised Code indicating that the 1265
offender's conduct is more serious than conduct normally 1266
constituting the offense are present, and they outweigh the 1267
applicable factors under that section indicating that the 1268
offender's conduct is less serious than conduct normally 1269
constituting the offense. 1270

(b) The court shall impose on an offender the longest
prison term authorized or required for the offense or, for
offenses for which division (A) (1) (a) or (2) (a) of this section
applies, the longest minimum prison term authorized or required
for the offense, and shall impose on the offender an additional
definite prison term of one, two, three, four, five, six, seven,
eight, nine, or ten years if all of the following criteria are
met:

(i) The offender is convicted of or pleads guilty to a
specification of the type described in section 2941.149 of the
Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has
been convicted of or pleaded guilty to three or more offenses
described in division (CC) (1) of section 2929.01 of the Revised
Code, including all offenses described in that division of which
the offender is convicted or to which the offender pleads guilty
in the current prosecution and all offenses described in that
division of which the offender previously has been convicted or
to which the offender previously pleaded guilty, whether
prosecuted together or separately.

(iii) The offense or offenses of which the offender
currently is convicted or to which the offender currently pleads
guilty is aggravated murder and the court does not impose a
sentence of death or life imprisonment without parole, murder,
terrorism and the court does not impose a sentence of life
imprisonment without parole, any felony of the first degree that
is an offense of violence and the court does not impose a
sentence of life imprisonment without parole, or any felony of
the second degree that is an offense of violence and the trier
of fact finds that the offense involved an attempt to cause or a

threat to cause serious physical harm to a person or resulted in 1301
serious physical harm to a person. 1302

(c) For purposes of division (B) (2) (b) of this section, 1303
two or more offenses committed at the same time or as part of 1304
the same act or event shall be considered one offense, and that 1305
one offense shall be the offense with the greatest penalty. 1306

(d) A sentence imposed under division (B) (2) (a) or (b) of 1307
this section shall not be reduced pursuant to section 2929.20, 1308
section 2967.19, or section 2967.193, or any other provision of 1309
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 1310
shall serve an additional prison term imposed under division (B) 1311
(2) (a) or (b) of this section consecutively to and prior to the 1312
prison term imposed for the underlying offense. 1313

(e) When imposing a sentence pursuant to division (B) (2) 1314
(a) or (b) of this section, the court shall state its findings 1315
explaining the imposed sentence. 1316

(3) Except when an offender commits a violation of section 1317
2903.01 or 2907.02 of the Revised Code and the penalty imposed 1318
for the violation is life imprisonment or commits a violation of 1319
section 2903.02 of the Revised Code, if the offender commits a 1320
violation of section 2925.03 or 2925.11 of the Revised Code and 1321
that section classifies the offender as a major drug offender, 1322
if the offender commits a violation of section 2925.05 of the 1323
Revised Code and division (E) (1) of that section classifies the 1324
offender as a major drug offender, if the offender commits a 1325
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 1326
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 1327
division (C) or (D) of section 3719.172, division (E) of section 1328
4729.51, or division (J) of section 4729.54 of the Revised Code 1329
that includes the sale, offer to sell, or possession of a 1330

schedule I or II controlled substance, with the exception of 1331
marihuana, and the court imposing sentence upon the offender 1332
finds that the offender is guilty of a specification of the type 1333
described in division (A) of section 2941.1410 of the Revised 1334
Code charging that the offender is a major drug offender, if the 1335
court imposing sentence upon an offender for a felony finds that 1336
the offender is guilty of corrupt activity with the most serious 1337
offense in the pattern of corrupt activity being a felony of the 1338
first degree, or if the offender is guilty of an attempted 1339
violation of section 2907.02 of the Revised Code and, had the 1340
offender completed the violation of section 2907.02 of the 1341
Revised Code that was attempted, the offender would have been 1342
subject to a sentence of life imprisonment or life imprisonment 1343
without parole for the violation of section 2907.02 of the 1344
Revised Code, the court shall impose upon the offender for the 1345
felony violation a mandatory prison term determined as described 1346
in this division that, subject to divisions (C) to (I) of 1347
section 2967.19 of the Revised Code, cannot be reduced pursuant 1348
to section 2929.20, section 2967.19, or any other provision of 1349
Chapter 2967. or 5120. of the Revised Code. The mandatory prison 1350
term shall be the maximum definite prison term prescribed in 1351
division (A)(1)(b) of this section for a felony of the first 1352
degree, except that for offenses for which division (A)(1)(a) of 1353
this section applies, the mandatory prison term shall be the 1354
longest minimum prison term prescribed in that division for the 1355
offense. 1356

(4) If the offender is being sentenced for a third or 1357
fourth degree felony OVI offense under division (G)(2) of 1358
section 2929.13 of the Revised Code, the sentencing court shall 1359
impose upon the offender a mandatory prison term in accordance 1360
with that division. In addition to the mandatory prison term, if 1361

the offender is being sentenced for a fourth degree felony OVI 1362
offense, the court, notwithstanding division (A) (4) of this 1363
section, may sentence the offender to a definite prison term of 1364
not less than six months and not more than thirty months, and if 1365
the offender is being sentenced for a third degree felony OVI 1366
offense, the sentencing court may sentence the offender to an 1367
additional prison term of any duration specified in division (A) 1368
(3) of this section. In either case, the additional prison term 1369
imposed shall be reduced by the sixty or one hundred twenty days 1370
imposed upon the offender as the mandatory prison term. The 1371
total of the additional prison term imposed under division (B) 1372
(4) of this section plus the sixty or one hundred twenty days 1373
imposed as the mandatory prison term shall equal a definite term 1374
in the range of six months to thirty months for a fourth degree 1375
felony OVI offense and shall equal one of the authorized prison 1376
terms specified in division (A) (3) of this section for a third 1377
degree felony OVI offense. If the court imposes an additional 1378
prison term under division (B) (4) of this section, the offender 1379
shall serve the additional prison term after the offender has 1380
served the mandatory prison term required for the offense. In 1381
addition to the mandatory prison term or mandatory and 1382
additional prison term imposed as described in division (B) (4) 1383
of this section, the court also may sentence the offender to a 1384
community control sanction under section 2929.16 or 2929.17 of 1385
the Revised Code, but the offender shall serve all of the prison 1386
terms so imposed prior to serving the community control 1387
sanction. 1388

If the offender is being sentenced for a fourth degree 1389
felony OVI offense under division (G) (1) of section 2929.13 of 1390
the Revised Code and the court imposes a mandatory term of local 1391
incarceration, the court may impose a prison term as described 1392

in division (A) (1) of that section. 1393

(5) If an offender is convicted of or pleads guilty to a 1394
violation of division (A) (1) or (2) of section 2903.06 of the 1395
Revised Code and also is convicted of or pleads guilty to a 1396
specification of the type described in section 2941.1414 of the 1397
Revised Code that charges that the victim of the offense is a 1398
peace officer, as defined in section 2935.01 of the Revised 1399
Code, or an investigator of the bureau of criminal 1400
identification and investigation, as defined in section 2903.11 1401
of the Revised Code, the court shall impose on the offender a 1402
prison term of five years. If a court imposes a prison term on 1403
an offender under division (B) (5) of this section, the prison 1404
term, subject to divisions (C) to (I) of section 2967.19 of the 1405
Revised Code, shall not be reduced pursuant to section 2929.20, 1406
section 2967.19, section 2967.193, or any other provision of 1407
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1408
shall not impose more than one prison term on an offender under 1409
division (B) (5) of this section for felonies committed as part 1410
of the same act. 1411

(6) If an offender is convicted of or pleads guilty to a 1412
violation of division (A) (1) or (2) of section 2903.06 of the 1413
Revised Code and also is convicted of or pleads guilty to a 1414
specification of the type described in section 2941.1415 of the 1415
Revised Code that charges that the offender previously has been 1416
convicted of or pleaded guilty to three or more violations of 1417
division (A) or (B) of section 4511.19 of the Revised Code or an 1418
equivalent offense, as defined in section 2941.1415 of the 1419
Revised Code, or three or more violations of any combination of 1420
those divisions and offenses, the court shall impose on the 1421
offender a prison term of three years. If a court imposes a 1422
prison term on an offender under division (B) (6) of this 1423

section, the prison term, subject to divisions (C) to (I) of 1424
section 2967.19 of the Revised Code, shall not be reduced 1425
pursuant to section 2929.20, section 2967.19, section 2967.193, 1426
or any other provision of Chapter 2967. or Chapter 5120. of the 1427
Revised Code. A court shall not impose more than one prison term 1428
on an offender under division (B) (6) of this section for 1429
felonies committed as part of the same act. 1430

(7) (a) If an offender is convicted of or pleads guilty to 1431
a felony violation of section 2905.01, 2905.02, 2907.21, 1432
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 1433
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 1434
section 2919.22 of the Revised Code and also is convicted of or 1435
pleads guilty to a specification of the type described in 1436
section 2941.1422 of the Revised Code that charges that the 1437
offender knowingly committed the offense in furtherance of human 1438
trafficking, the court shall impose on the offender a mandatory 1439
prison term that is one of the following: 1440

(i) If the offense is a felony of the first degree, a 1441
definite prison term of not less than five years and not greater 1442
than eleven years, except that if the offense is a felony of the 1443
first degree committed on or after the effective date of this 1444
amendment, the court shall impose as the minimum prison term a 1445
mandatory term of not less than five years and not greater than 1446
eleven years; 1447

(ii) If the offense is a felony of the second or third 1448
degree, a definite prison term of not less than three years and 1449
not greater than the maximum prison term allowed for the offense 1450
by division (A) (2) (b) or (3) of this section, except that if the 1451
offense is a felony of the second degree committed on or after 1452
the effective date of this amendment, the court shall impose as 1453

the minimum prison term a mandatory term of not less than three 1454
years and not greater than eight years; 1455

(iii) If the offense is a felony of the fourth or fifth 1456
degree, a definite prison term that is the maximum prison term 1457
allowed for the offense by division (A) of section 2929.14 of 1458
the Revised Code. 1459

(b) Subject to divisions (C) to (I) of section 2967.19 of 1460
the Revised Code, the prison term imposed under division (B) (7) 1461
(a) of this section shall not be reduced pursuant to section 1462
2929.20, section 2967.19, section 2967.193, or any other 1463
provision of Chapter 2967. of the Revised Code. A court shall 1464
not impose more than one prison term on an offender under 1465
division (B) (7) (a) of this section for felonies committed as 1466
part of the same act, scheme, or plan. 1467

(8) If an offender is convicted of or pleads guilty to a 1468
felony violation of section 2903.11, 2903.12, or 2903.13 of the 1469
Revised Code and also is convicted of or pleads guilty to a 1470
specification of the type described in section 2941.1423 of the 1471
Revised Code that charges that the victim of the violation was a 1472
woman whom the offender knew was pregnant at the time of the 1473
violation, notwithstanding the range prescribed in division (A) 1474
of this section as the definite prison term or minimum prison 1475
term for felonies of the same degree as the violation, the court 1476
shall impose on the offender a mandatory prison term that is 1477
either a definite prison term of six months or one of the prison 1478
terms prescribed in division (A) of this section for felonies of 1479
the same degree as the violation, except that if the violation 1480
is a felony of the first or second degree committed on or after 1481
the effective date of this amendment, the court shall impose as 1482
the minimum prison term under division (A) (1) (a) or (2) (a) of 1483

this section a mandatory term that is one of the terms 1484
prescribed in that division, whichever is applicable, for the 1485
offense. 1486

(9) (a) If an offender is convicted of or pleads guilty to 1487
a violation of division (A) (1) or (2) of section 2903.11 of the 1488
Revised Code and also is convicted of or pleads guilty to a 1489
specification of the type described in section 2941.1425 of the 1490
Revised Code, the court shall impose on the offender a mandatory 1491
prison term of six years if either of the following applies: 1492

(i) The violation is a violation of division (A) (1) of 1493
section 2903.11 of the Revised Code and the specification 1494
charges that the offender used an accelerant in committing the 1495
violation and the serious physical harm to another or to 1496
another's unborn caused by the violation resulted in a 1497
permanent, serious disfigurement or permanent, substantial 1498
incapacity; 1499

(ii) The violation is a violation of division (A) (2) of 1500
section 2903.11 of the Revised Code and the specification 1501
charges that the offender used an accelerant in committing the 1502
violation, that the violation caused physical harm to another or 1503
to another's unborn, and that the physical harm resulted in a 1504
permanent, serious disfigurement or permanent, substantial 1505
incapacity. 1506

(b) If a court imposes a prison term on an offender under 1507
division (B) (9) (a) of this section, the prison term shall not be 1508
reduced pursuant to section 2929.20, section 2967.19, section 1509
2967.193, or any other provision of Chapter 2967. or Chapter 1510
5120. of the Revised Code. A court shall not impose more than 1511
one prison term on an offender under division (B) (9) of this 1512
section for felonies committed as part of the same act. 1513

(c) The provisions of divisions (B)(9) and (C)(6) of this 1514
section and of division (D)(2) of section 2903.11, division (F) 1515
(20) of section 2929.13, and section 2941.1425 of the Revised 1516
Code shall be known as "Judy's Law." 1517

(10) If an offender is convicted of or pleads guilty to a 1518
violation of division (A) of section 2903.11 of the Revised Code 1519
and also is convicted of or pleads guilty to a specification of 1520
the type described in section 2941.1426 of the Revised Code that 1521
charges that the victim of the offense suffered permanent 1522
disabling harm as a result of the offense and that the victim 1523
was under ten years of age at the time of the offense, 1524
regardless of whether the offender knew the age of the victim, 1525
the court shall impose upon the offender an additional definite 1526
prison term of six years. A prison term imposed on an offender 1527
under division (B)(10) of this section shall not be reduced 1528
pursuant to section 2929.20, section 2967.193, or any other 1529
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 1530
If a court imposes an additional prison term on an offender 1531
under this division relative to a violation of division (A) of 1532
section 2903.11 of the Revised Code, the court shall not impose 1533
any other additional prison term on the offender relative to the 1534
same offense. 1535

(11) If an offender is convicted of or pleads guilty to a 1536
felony violation of section 2925.03 or 2925.05 of the Revised 1537
Code or a felony violation of section 2925.11 of the Revised 1538
Code for which division (C)(11) of that section applies in 1539
determining the sentence for the violation, if the drug involved 1540
in the violation is a fentanyl-related compound or a compound, 1541
mixture, preparation, or substance containing a fentanyl-related 1542
compound, and if the offender also is convicted of or pleads 1543
guilty to a specification of the type described in division (B) 1544

of section 2941.1410 of the Revised Code that charges that the 1545
offender is a major drug offender, in addition to any other 1546
penalty imposed for the violation, the court shall impose on the 1547
offender a mandatory prison term of three, four, five, six, 1548
seven, or eight years. If a court imposes a prison term on an 1549
offender under division (B)(11) of this section, the prison 1550
term, subject to divisions (C) to (I) of section 2967.19 of the 1551
Revised Code, shall not be reduced pursuant to section 2929.20, 1552
2967.19, or 2967.193, or any other provision of Chapter 2967. or 1553
5120. of the Revised Code. A court shall not impose more than 1554
one prison term on an offender under division (B)(11) of this 1555
section for felonies committed as part of the same act. 1556

(C)(1)(a) Subject to division (C)(1)(b) of this section, 1557
if a mandatory prison term is imposed upon an offender pursuant 1558
to division (B)(1)(a) of this section for having a firearm on or 1559
about the offender's person or under the offender's control 1560
while committing a felony, if a mandatory prison term is imposed 1561
upon an offender pursuant to division (B)(1)(c) of this section 1562
for committing a felony specified in that division by 1563
discharging a firearm from a motor vehicle, or if both types of 1564
mandatory prison terms are imposed, the offender shall serve any 1565
mandatory prison term imposed under either division 1566
consecutively to any other mandatory prison term imposed under 1567
either division or under division (B)(1)(d) of this section, 1568
consecutively to and prior to any prison term imposed for the 1569
underlying felony pursuant to division (A), (B)(2), or (B)(3) of 1570
this section or any other section of the Revised Code, and 1571
consecutively to any other prison term or mandatory prison term 1572
previously or subsequently imposed upon the offender. 1573

(b) If a mandatory prison term is imposed upon an offender 1574
pursuant to division (B)(1)(d) of this section for wearing or 1575

carrying body armor while committing an offense of violence that 1576
is a felony, the offender shall serve the mandatory term so 1577
imposed consecutively to any other mandatory prison term imposed 1578
under that division or under division (B)(1)(a) or (c) of this 1579
section, consecutively to and prior to any prison term imposed 1580
for the underlying felony under division (A), (B)(2), or (B)(3) 1581
of this section or any other section of the Revised Code, and 1582
consecutively to any other prison term or mandatory prison term 1583
previously or subsequently imposed upon the offender. 1584

(c) If a mandatory prison term is imposed upon an offender 1585
pursuant to division (B)(1)(f) of this section, the offender 1586
shall serve the mandatory prison term so imposed consecutively 1587
to and prior to any prison term imposed for the underlying 1588
felony under division (A), (B)(2), or (B)(3) of this section or 1589
any other section of the Revised Code, and consecutively to any 1590
other prison term or mandatory prison term previously or 1591
subsequently imposed upon the offender. 1592

(d) If a mandatory prison term is imposed upon an offender 1593
pursuant to division (B)(7) or (8) of this section, the offender 1594
shall serve the mandatory prison term so imposed consecutively 1595
to any other mandatory prison term imposed under that division 1596
or under any other provision of law and consecutively to any 1597
other prison term or mandatory prison term previously or 1598
subsequently imposed upon the offender. 1599

(e) If a mandatory prison term is imposed upon an offender 1600
pursuant to division (B)(11) of this section, the offender shall 1601
serve the mandatory prison term consecutively to any other 1602
mandatory prison term imposed under that division, consecutively 1603
to and prior to any prison term imposed for the underlying 1604
felony, and consecutively to any other prison term or mandatory 1605

prison term previously or subsequently imposed upon the 1606
offender. 1607

(2) If an offender who is an inmate in a jail, prison, or 1608
other residential detention facility violates section 2917.02, 1609
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 1610
(2) of section 2921.34 of the Revised Code, if an offender who 1611
is under detention at a detention facility commits a felony 1612
violation of section 2923.131 of the Revised Code, or if an 1613
offender who is an inmate in a jail, prison, or other 1614
residential detention facility or is under detention at a 1615
detention facility commits another felony while the offender is 1616
an escapee in violation of division (A)(1) or (2) of section 1617
2921.34 of the Revised Code, any prison term imposed upon the 1618
offender for one of those violations shall be served by the 1619
offender consecutively to the prison term or term of 1620
imprisonment the offender was serving when the offender 1621
committed that offense and to any other prison term previously 1622
or subsequently imposed upon the offender. 1623

(3) If a prison term is imposed for a violation of 1624
division (B) of section 2911.01 of the Revised Code, a violation 1625
of division (A) of section 2913.02 of the Revised Code in which 1626
the stolen property is a firearm or dangerous ordnance, or a 1627
felony violation of division (B) of section 2921.331 of the 1628
Revised Code, the offender shall serve that prison term 1629
consecutively to any other prison term or mandatory prison term 1630
previously or subsequently imposed upon the offender. 1631

(4) If multiple prison terms are imposed on an offender 1632
for convictions of multiple offenses, the court may require the 1633
offender to serve the prison terms consecutively if the court 1634
finds that the consecutive service is necessary to protect the 1635

public from future crime or to punish the offender and that 1636
consecutive sentences are not disproportionate to the 1637
seriousness of the offender's conduct and to the danger the 1638
offender poses to the public, and if the court also finds any of 1639
the following: 1640

(a) The offender committed one or more of the multiple 1641
offenses while the offender was awaiting trial or sentencing, 1642
was under a sanction imposed pursuant to section 2929.16, 1643
2929.17, or 2929.18 of the Revised Code, or was under post- 1644
release control for a prior offense. 1645

(b) At least two of the multiple offenses were committed 1646
as part of one or more courses of conduct, and the harm caused 1647
by two or more of the multiple offenses so committed was so 1648
great or unusual that no single prison term for any of the 1649
offenses committed as part of any of the courses of conduct 1650
adequately reflects the seriousness of the offender's conduct. 1651

(c) The offender's history of criminal conduct 1652
demonstrates that consecutive sentences are necessary to protect 1653
the public from future crime by the offender. 1654

(5) If a mandatory prison term is imposed upon an offender 1655
pursuant to division (B) (5) or (6) of this section, the offender 1656
shall serve the mandatory prison term consecutively to and prior 1657
to any prison term imposed for the underlying violation of 1658
division (A) (1) or (2) of section 2903.06 of the Revised Code 1659
pursuant to division (A) of this section or section 2929.142 of 1660
the Revised Code. If a mandatory prison term is imposed upon an 1661
offender pursuant to division (B) (5) of this section, and if a 1662
mandatory prison term also is imposed upon the offender pursuant 1663
to division (B) (6) of this section in relation to the same 1664
violation, the offender shall serve the mandatory prison term 1665

imposed pursuant to division (B) (5) of this section 1666
consecutively to and prior to the mandatory prison term imposed 1667
pursuant to division (B) (6) of this section and consecutively to 1668
and prior to any prison term imposed for the underlying 1669
violation of division (A) (1) or (2) of section 2903.06 of the 1670
Revised Code pursuant to division (A) of this section or section 1671
2929.142 of the Revised Code. 1672

(6) If a mandatory prison term is imposed on an offender 1673
pursuant to division (B) (9) of this section, the offender shall 1674
serve the mandatory prison term consecutively to and prior to 1675
any prison term imposed for the underlying violation of division 1676
(A) (1) or (2) of section 2903.11 of the Revised Code and 1677
consecutively to and prior to any other prison term or mandatory 1678
prison term previously or subsequently imposed on the offender. 1679

(7) If a mandatory prison term is imposed on an offender 1680
pursuant to division (B) (10) of this section, the offender shall 1681
serve that mandatory prison term consecutively to and prior to 1682
any prison term imposed for the underlying felonious assault. 1683
Except as otherwise provided in division (C) of this section, 1684
any other prison term or mandatory prison term previously or 1685
subsequently imposed upon the offender may be served 1686
concurrently with, or consecutively to, the prison term imposed 1687
pursuant to division (B) (10) of this section. 1688

(8) Any prison term imposed for a violation of section 1689
2903.04 of the Revised Code that is based on a violation of 1690
section 2925.03 or 2925.11 of the Revised Code or on a violation 1691
of section 2925.05 of the Revised Code that is not funding of 1692
marihuana trafficking shall run consecutively to any prison term 1693
imposed for the violation of section 2925.03 or 2925.11 of the 1694
Revised Code or for the violation of section 2925.05 of the 1695

Revised Code that is not funding of marihuana trafficking. 1696

(9) When consecutive prison terms are imposed pursuant to 1697
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 1698
division (H)(1) or (2) of this section, subject to division (C) 1699
(10) of this section, the term to be served is the aggregate of 1700
all of the terms so imposed. 1701

(10) When a court sentences an offender to a non-life 1702
felony indefinite prison term, any definite prison term or 1703
mandatory definite prison term previously or subsequently 1704
imposed on the offender in addition to that indefinite sentence 1705
that is required to be served consecutively to that indefinite 1706
sentence shall be served prior to the indefinite sentence. 1707

(11) If a court is sentencing an offender for a felony of 1708
the first or second degree, if division (A)(1)(a) or (2)(a) of 1709
this section applies with respect to the sentencing for the 1710
offense, and if the court is required under the Revised Code 1711
section that sets forth the offense or any other Revised Code 1712
provision to impose a mandatory prison term for the offense, the 1713
court shall impose the required mandatory prison term as the 1714
minimum term imposed under division (A)(1)(a) or (2)(a) of this 1715
section, whichever is applicable. 1716

(D)(1) If a court imposes a prison term, other than a term 1717
of life imprisonment, for a felony of the first degree, for a 1718
felony of the second degree, for a felony sex offense, or for a 1719
felony of the third degree that is an offense of violence and 1720
that is not a felony sex offense, it shall include in the 1721
sentence a requirement that the offender be subject to a period 1722
of post-release control after the offender's release from 1723
imprisonment, in accordance with section 2967.28 of the Revised 1724
Code. If a court imposes a sentence including a prison term of a 1725

type described in this division on or after July 11, 2006, the 1726
failure of a court to include a post-release control requirement 1727
in the sentence pursuant to this division does not negate, 1728
limit, or otherwise affect the mandatory period of post-release 1729
control that is required for the offender under division (B) of 1730
section 2967.28 of the Revised Code. Section 2929.191 of the 1731
Revised Code applies if, prior to July 11, 2006, a court imposed 1732
a sentence including a prison term of a type described in this 1733
division and failed to include in the sentence pursuant to this 1734
division a statement regarding post-release control. 1735

(2) If a court imposes a prison term for a felony of the 1736
third, fourth, or fifth degree that is not subject to division 1737
(D) (1) of this section, it shall include in the sentence a 1738
requirement that the offender be subject to a period of post- 1739
release control after the offender's release from imprisonment, 1740
in accordance with that division, if the parole board determines 1741
that a period of post-release control is necessary. Section 1742
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1743
a court imposed a sentence including a prison term of a type 1744
described in this division and failed to include in the sentence 1745
pursuant to this division a statement regarding post-release 1746
control. 1747

(E) The court shall impose sentence upon the offender in 1748
accordance with section 2971.03 of the Revised Code, and Chapter 1749
2971. of the Revised Code applies regarding the prison term or 1750
term of life imprisonment without parole imposed upon the 1751
offender and the service of that term of imprisonment if any of 1752
the following apply: 1753

(1) A person is convicted of or pleads guilty to a violent 1754
sex offense or a designated homicide, assault, or kidnapping 1755

offense, and, in relation to that offense, the offender is 1756
adjudicated a sexually violent predator. 1757

(2) A person is convicted of or pleads guilty to a 1758
violation of division (A) (1) (b) of section 2907.02 of the 1759
Revised Code committed on or after January 2, 2007, and either 1760
the court does not impose a sentence of life without parole when 1761
authorized pursuant to division (B) of section 2907.02 of the 1762
Revised Code, or division (B) of section 2907.02 of the Revised 1763
Code provides that the court shall not sentence the offender 1764
pursuant to section 2971.03 of the Revised Code. 1765

(3) A person is convicted of or pleads guilty to attempted 1766
rape committed on or after January 2, 2007, and a specification 1767
of the type described in section 2941.1418, 2941.1419, or 1768
2941.1420 of the Revised Code. 1769

(4) A person is convicted of or pleads guilty to a 1770
violation of section 2905.01 of the Revised Code committed on or 1771
after January 1, 2008, and that section requires the court to 1772
sentence the offender pursuant to section 2971.03 of the Revised 1773
Code. 1774

(5) A person is convicted of or pleads guilty to 1775
aggravated murder committed on or after January 1, 2008, and 1776
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 1777
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1)~~ 1778
~~(d) (E) (1) (a) (iv)~~ of section 2929.03, or division (A) or (B) of 1779
section 2929.06 of the Revised Code requires the court to 1780
sentence the offender pursuant to division (B) (3) of section 1781
2971.03 of the Revised Code. 1782

(6) A person is convicted of or pleads guilty to murder 1783
committed on or after January 1, 2008, and division (B) (2) of 1784

section 2929.02 of the Revised Code requires the court to 1785
sentence the offender pursuant to section 2971.03 of the Revised 1786
Code. 1787

(F) If a person who has been convicted of or pleaded 1788
guilty to a felony is sentenced to a prison term or term of 1789
imprisonment under this section, sections 2929.02 to 2929.06 of 1790
the Revised Code, section 2929.142 of the Revised Code, section 1791
2971.03 of the Revised Code, or any other provision of law, 1792
section 5120.163 of the Revised Code applies regarding the 1793
person while the person is confined in a state correctional 1794
institution. 1795

(G) If an offender who is convicted of or pleads guilty to 1796
a felony that is an offense of violence also is convicted of or 1797
pleads guilty to a specification of the type described in 1798
section 2941.142 of the Revised Code that charges the offender 1799
with having committed the felony while participating in a 1800
criminal gang, the court shall impose upon the offender an 1801
additional prison term of one, two, or three years. 1802

(H) (1) If an offender who is convicted of or pleads guilty 1803
to aggravated murder, murder, or a felony of the first, second, 1804
or third degree that is an offense of violence also is convicted 1805
of or pleads guilty to a specification of the type described in 1806
section 2941.143 of the Revised Code that charges the offender 1807
with having committed the offense in a school safety zone or 1808
towards a person in a school safety zone, the court shall impose 1809
upon the offender an additional prison term of two years. The 1810
offender shall serve the additional two years consecutively to 1811
and prior to the prison term imposed for the underlying offense. 1812

(2) (a) If an offender is convicted of or pleads guilty to 1813
a felony violation of section 2907.22, 2907.24, 2907.241, or 1814

2907.25 of the Revised Code and to a specification of the type 1815
described in section 2941.1421 of the Revised Code and if the 1816
court imposes a prison term on the offender for the felony 1817
violation, the court may impose upon the offender an additional 1818
prison term as follows: 1819

(i) Subject to division (H) (2) (a) (ii) of this section, an 1820
additional prison term of one, two, three, four, five, or six 1821
months; 1822

(ii) If the offender previously has been convicted of or 1823
pleaded guilty to one or more felony or misdemeanor violations 1824
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 1825
the Revised Code and also was convicted of or pleaded guilty to 1826
a specification of the type described in section 2941.1421 of 1827
the Revised Code regarding one or more of those violations, an 1828
additional prison term of one, two, three, four, five, six, 1829
seven, eight, nine, ten, eleven, or twelve months. 1830

(b) In lieu of imposing an additional prison term under 1831
division (H) (2) (a) of this section, the court may directly 1832
impose on the offender a sanction that requires the offender to 1833
wear a real-time processing, continual tracking electronic 1834
monitoring device during the period of time specified by the 1835
court. The period of time specified by the court shall equal the 1836
duration of an additional prison term that the court could have 1837
imposed upon the offender under division (H) (2) (a) of this 1838
section. A sanction imposed under this division shall commence 1839
on the date specified by the court, provided that the sanction 1840
shall not commence until after the offender has served the 1841
prison term imposed for the felony violation of section 2907.22, 1842
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1843
residential sanction imposed for the violation under section 1844

2929.16 of the Revised Code. A sanction imposed under this 1845
division shall be considered to be a community control sanction 1846
for purposes of section 2929.15 of the Revised Code, and all 1847
provisions of the Revised Code that pertain to community control 1848
sanctions shall apply to a sanction imposed under this division, 1849
except to the extent that they would by their nature be clearly 1850
inapplicable. The offender shall pay all costs associated with a 1851
sanction imposed under this division, including the cost of the 1852
use of the monitoring device. 1853

(I) At the time of sentencing, the court may recommend the 1854
offender for placement in a program of shock incarceration under 1855
section 5120.031 of the Revised Code or for placement in an 1856
intensive program prison under section 5120.032 of the Revised 1857
Code, disapprove placement of the offender in a program of shock 1858
incarceration or an intensive program prison of that nature, or 1859
make no recommendation on placement of the offender. In no case 1860
shall the department of rehabilitation and correction place the 1861
offender in a program or prison of that nature unless the 1862
department determines as specified in section 5120.031 or 1863
5120.032 of the Revised Code, whichever is applicable, that the 1864
offender is eligible for the placement. 1865

If the court disapproves placement of the offender in a 1866
program or prison of that nature, the department of 1867
rehabilitation and correction shall not place the offender in 1868
any program of shock incarceration or intensive program prison. 1869

If the court recommends placement of the offender in a 1870
program of shock incarceration or in an intensive program 1871
prison, and if the offender is subsequently placed in the 1872
recommended program or prison, the department shall notify the 1873
court of the placement and shall include with the notice a brief 1874

description of the placement. 1875

If the court recommends placement of the offender in a 1876
program of shock incarceration or in an intensive program prison 1877
and the department does not subsequently place the offender in 1878
the recommended program or prison, the department shall send a 1879
notice to the court indicating why the offender was not placed 1880
in the recommended program or prison. 1881

If the court does not make a recommendation under this 1882
division with respect to an offender and if the department 1883
determines as specified in section 5120.031 or 5120.032 of the 1884
Revised Code, whichever is applicable, that the offender is 1885
eligible for placement in a program or prison of that nature, 1886
the department shall screen the offender and determine if there 1887
is an available program of shock incarceration or an intensive 1888
program prison for which the offender is suited. If there is an 1889
available program of shock incarceration or an intensive program 1890
prison for which the offender is suited, the department shall 1891
notify the court of the proposed placement of the offender as 1892
specified in section 5120.031 or 5120.032 of the Revised Code 1893
and shall include with the notice a brief description of the 1894
placement. The court shall have ten days from receipt of the 1895
notice to disapprove the placement. 1896

(J) If a person is convicted of or pleads guilty to 1897
aggravated vehicular homicide in violation of division (A) (1) of 1898
section 2903.06 of the Revised Code and division (B) (2) (c) of 1899
that section applies, the person shall be sentenced pursuant to 1900
section 2929.142 of the Revised Code. 1901

(K) (1) The court shall impose an additional mandatory 1902
prison term of two, three, four, five, six, seven, eight, nine, 1903
ten, or eleven years on an offender who is convicted of or 1904

pleads guilty to a violent felony offense if the offender also 1905
is convicted of or pleads guilty to a specification of the type 1906
described in section 2941.1424 of the Revised Code that charges 1907
that the offender is a violent career criminal and had a firearm 1908
on or about the offender's person or under the offender's 1909
control while committing the presently charged violent felony 1910
offense and displayed or brandished the firearm, indicated that 1911
the offender possessed a firearm, or used the firearm to 1912
facilitate the offense. The offender shall serve the prison term 1913
imposed under this division consecutively to and prior to the 1914
prison term imposed for the underlying offense. The prison term 1915
shall not be reduced pursuant to section 2929.20 or 2967.19 or 1916
any other provision of Chapter 2967. or 5120. of the Revised 1917
Code. A court may not impose more than one sentence under 1918
division (B) (2) (a) of this section and this division for acts 1919
committed as part of the same act or transaction. 1920

(2) As used in division (K) (1) of this section, "violent 1921
career criminal" and "violent felony offense" have the same 1922
meanings as in section 2923.132 of the Revised Code. 1923

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 1924
the Revised Code to an offender is precluded unless one of the 1925
following applies: 1926

(a) The offender is charged with a violent sex offense, 1927
and the indictment, count in the indictment, or information 1928
charging the violent sex offense also includes a specification 1929
that the offender is a sexually violent predator, or the 1930
offender is charged with a designated homicide, assault, or 1931
kidnapping offense, and the indictment, count in the indictment, 1932
or information charging the designated homicide, assault, or 1933
kidnapping offense also includes both a specification of the 1934

type described in section 2941.147 of the Revised Code and a 1935
specification that the offender is a sexually violent predator. 1936

(b) The offender is convicted of or pleads guilty to a 1937
violation of division (A) (1) (b) of section 2907.02 of the 1938
Revised Code committed on or after January 2, 2007, and division 1939
(B) of section 2907.02 of the Revised Code does not prohibit the 1940
court from sentencing the offender pursuant to section 2971.03 1941
of the Revised Code. 1942

(c) The offender is convicted of or pleads guilty to 1943
attempted rape committed on or after January 2, 2007, and to a 1944
specification of the type described in section 2941.1418, 1945
2941.1419, or 2941.1420 of the Revised Code. 1946

(d) The offender is convicted of or pleads guilty to a 1947
violation of section 2905.01 of the Revised Code and to a 1948
specification of the type described in section 2941.147 of the 1949
Revised Code, and section 2905.01 of the Revised Code requires a 1950
court to sentence the offender pursuant to section 2971.03 of 1951
the Revised Code. 1952

(e) The offender is convicted of or pleads guilty to 1953
aggravated murder and to a specification of the type described 1954
in section 2941.147 of the Revised Code, and division (A) (2) (b) 1955
(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) 1956
(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of 1957
section 2929.03, or division (A) or (B) of section 2929.06 of 1958
the Revised Code requires a court to sentence the offender 1959
pursuant to division (B) (3) of section 2971.03 of the Revised 1960
Code. 1961

(f) The offender is convicted of or pleads guilty to 1962
murder and to a specification of the type described in section 1963

2941.147 of the Revised Code, and division (B)(2) of section 1964
2929.02 of the Revised Code requires a court to sentence the 1965
offender pursuant to section 2971.03 of the Revised Code. 1966

(2) A specification required under division (A)(1)(a) of 1967
this section that an offender is a sexually violent predator 1968
shall be stated at the end of the body of the indictment, count, 1969
or information and shall be stated in substantially the 1970
following form: 1971

"Specification (or, specification to the first count). The 1972
grand jury (or insert the person's or prosecuting attorney's 1973
name when appropriate) further find and specify that the 1974
offender is a sexually violent predator." 1975

(B) In determining for purposes of this section whether a 1976
person is a sexually violent predator, all of the factors set 1977
forth in divisions (H)(1) to (6) of section 2971.01 of the 1978
Revised Code that apply regarding the person may be considered 1979
as evidence tending to indicate that it is likely that the 1980
person will engage in the future in one or more sexually violent 1981
offenses. 1982

(C) As used in this section, "designated homicide, 1983
assault, or kidnapping offense," "violent sex offense," and 1984
"sexually violent predator" have the same meanings as in section 1985
2971.01 of the Revised Code. 1986

Sec. 2953.21. (A)(1)(a) A person in any of the following 1987
categories may file a petition in the court that imposed 1988
sentence, stating the grounds for relief relied upon, and asking 1989
the court to vacate or set aside the judgment or sentence or to 1990
grant other appropriate relief: 1991

(i) Any person who has been convicted of a criminal 1992

offense or adjudicated a delinquent child and who claims that 1993
there was such a denial or infringement of the person's rights 1994
as to render the judgment void or voidable under the Ohio 1995
Constitution or the Constitution of the United States, ~~any;~~ 1996

(ii) Any person who has been convicted of a criminal 1997
offense and sentenced to death and who claims that there was a 1998
denial or infringement of the person's rights under either of 1999
those Constitutions that creates a reasonable probability of an 2000
altered verdict, ~~and any;~~ 2001

(iii) Any person who has been convicted of a criminal 2002
offense that is a felony and who is an offender for whom DNA 2003
testing that was performed under sections 2953.71 to 2953.81 of 2004
the Revised Code or under former section 2953.82 of the Revised 2005
Code and analyzed in the context of and upon consideration of 2006
all available admissible evidence related to the person's case 2007
as described in division (D) of section 2953.74 of the Revised 2008
Code provided results that establish, by clear and convincing 2009
evidence, actual innocence of that felony offense or, if the 2010
person was sentenced to death, establish, by clear and 2011
convincing evidence, actual innocence of the aggravating 2012
circumstance or circumstances the person was found guilty of 2013
committing and that is or are the basis of that sentence of 2014
death, ~~may file a petition in the court that imposed sentence,~~ 2015
~~stating the grounds for relief relied upon, and asking the court~~ 2016
~~to vacate or set aside the judgment or sentence or to grant~~ 2017
~~other appropriate relief;~~ 2018

(iv) Any person who has been convicted of aggravated 2019
murder and sentenced to death for the offense and who claims 2020
that the person had a serious mental illness at the time of the 2021
commission of the offense and that as a result the court should 2022

render void the sentence of death, with the filing of the 2023
petition constituting the waiver described in division (A) (3) (b) 2024
of this section. 2025

~~The~~ (b) A petitioner under division (A) (1) (a) of this 2026
section may file a supporting affidavit and other documentary 2027
evidence in support of the claim for relief. 2028

~~(b)~~ (c) As used in division (A) (1) (a) of this section, ~~—~~ 2029
"actual"; 2030

(i) "Actual innocence" means that, had the results of the 2031
DNA testing conducted under sections 2953.71 to 2953.81 of the 2032
Revised Code or under former section 2953.82 of the Revised Code 2033
been presented at trial, and had those results been analyzed in 2034
the context of and upon consideration of all available 2035
admissible evidence related to the person's case as described in 2036
division (D) of section 2953.74 of the Revised Code, no 2037
reasonable factfinder would have found the petitioner guilty of 2038
the offense of which the petitioner was convicted, or, if the 2039
person was sentenced to death, no reasonable factfinder would 2040
have found the petitioner guilty of the aggravating circumstance 2041
or circumstances the petitioner was found guilty of committing 2042
and that is or are the basis of that sentence of death. 2043

(ii) "Serious mental illness" has the same meaning as in 2044
section 2929.025 of the Revised Code. 2045

~~(c)~~ (d) As used in divisions (A) (1) (a) and ~~(b)~~ (c) of this 2046
section, "former section 2953.82 of the Revised Code" means 2047
section 2953.82 of the Revised Code as it existed prior to July 2048
6, 2010. 2049

~~(d)~~ (e) At any time in conjunction with the filing of a 2050
petition for postconviction relief under division (A) of this 2051

section by a person who has been sentenced to death, or with the 2052
litigation of a petition so filed, the court, for good cause 2053
shown, may authorize the petitioner in seeking the 2054
postconviction relief and the prosecuting attorney of the county 2055
served by the court in defending the proceeding, to take 2056
depositions and to issue subpoenas and subpoenas duces tecum in 2057
accordance with divisions (A) (1) ~~(d)~~ (e), (A) (1) ~~(e)~~ (f), and (C) of 2058
this section, and to any other form of discovery as in a civil 2059
action that the court in its discretion permits. The court may 2060
limit the extent of discovery under this division. In addition 2061
to discovery that is relevant to the claim and was available 2062
under Criminal Rule 16 through conclusion of the original 2063
criminal trial, the court, for good cause shown, may authorize 2064
the petitioner or prosecuting attorney to take depositions and 2065
issue subpoenas and subpoenas duces tecum in either of the 2066
following circumstances: 2067

(i) For any witness who testified at trial or who was 2068
disclosed by the state prior to trial, except as otherwise 2069
provided in this division, the petitioner or prosecuting 2070
attorney shows clear and convincing evidence that the witness is 2071
material and that a deposition of the witness or the issuing of 2072
a subpoena or subpoena duces tecum is of assistance in order to 2073
substantiate or refute the petitioner's claim that there is a 2074
reasonable probability of an altered verdict. This division does 2075
not apply if the witness was unavailable for trial or would not 2076
voluntarily be interviewed by the defendant or prosecuting 2077
attorney. 2078

(ii) For any witness with respect to whom division (A) (1) 2079
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 2080
prosecuting attorney shows good cause that the witness is 2081
material and that a deposition of the witness or the issuing of 2082

a subpoena or subpoena duces tecum is of assistance in order to 2083
substantiate or refute the petitioner's claim that there is a 2084
reasonable probability of an altered verdict. 2085

~~(e)~~(f) If a person who has been sentenced to death and who 2086
files a petition for postconviction relief under division (A) of 2087
this section requests postconviction discovery as described in 2088
division (A) (1) ~~(d)~~(e) of this section or if the prosecuting 2089
attorney of the county served by the court requests 2090
postconviction discovery as described in that division, within 2091
ten days after the docketing of the request, or within any other 2092
time that the court sets for good cause shown, the prosecuting 2093
attorney shall respond by answer or motion to the petitioner's 2094
request or the petitioner shall respond by answer or motion to 2095
the prosecuting attorney's request, whichever is applicable. 2096

~~(f)~~(g) If a person who has been sentenced to death and who 2097
files a petition for postconviction relief under division (A) of 2098
this section requests postconviction discovery as described in 2099
division (A) (1) ~~(d)~~(e) of this section or if the prosecuting 2100
attorney of the county served by the court requests 2101
postconviction discovery as described in that division, upon 2102
motion by the petitioner, the prosecuting attorney, or the 2103
person from whom discovery is sought, and for good cause shown, 2104
the court in which the action is pending may make any order that 2105
justice requires to protect a party or person from oppression or 2106
undue burden or expense, including but not limited to the orders 2107
described in divisions (A) (1) ~~(g)~~(h) (i) to (viii) of this 2108
section. The court also may make any such order if, in its 2109
discretion, it determines that the discovery sought would be 2110
irrelevant to the claims made in the petition; and if the court 2111
makes any such order on that basis, it shall explain in the 2112
order the reasons why the discovery would be irrelevant. 2113

~~(g)~~(h) If a petitioner, prosecuting attorney, or person 2114
from whom discovery is sought makes a motion for an order under 2115
division (A) (1) ~~(f)~~(g) of this section and the order is denied in 2116
whole or in part, the court, on terms and conditions as are 2117
just, may order that any party or person provide or permit 2118
discovery as described in division (A) (1) ~~(d)~~(e) of this section. 2119
The provisions of Civil Rule 37(A) (4) apply to the award of 2120
expenses incurred in relation to the motion, except that in no 2121
case shall a court require a petitioner who is indigent to pay 2122
expenses under those provisions. 2123

Before any person moves for an order under division (A) (1) 2124
~~(f)~~(g) of this section, that person shall make a reasonable 2125
effort to resolve the matter through discussion with the 2126
petitioner or prosecuting attorney seeking discovery. A motion 2127
for an order under division (A) (1) ~~(f)~~(g) of this section shall 2128
be accompanied by a statement reciting the effort made to 2129
resolve the matter in accordance with this paragraph. 2130

The orders that may be made under division (A) (1) ~~(f)~~(g) of 2131
this section include, but are not limited to, any of the 2132
following: 2133

(i) That the discovery not be had; 2134

(ii) That the discovery may be had only on specified terms 2135
and conditions, including a designation of the time or place; 2136

(iii) That the discovery may be had only by a method of 2137
discovery other than that selected by the party seeking 2138
discovery; 2139

(iv) That certain matters not be inquired into or that the 2140
scope of the discovery be limited to certain matters; 2141

(v) That discovery be conducted with no one present except 2142

persons designated by the court; 2143

(vi) That a deposition after being sealed be opened only 2144
by order of the court; 2145

(vii) That a trade secret or other confidential research, 2146
development, or commercial information not be disclosed or be 2147
disclosed only in a designated way; 2148

(viii) That the parties simultaneously file specified 2149
documents or information enclosed in sealed envelopes to be 2150
opened as directed by the court. 2151

~~(h)~~ (i) Any postconviction discovery authorized under 2152
division (A) (1) ~~(d)~~ (e) of this section shall be completed not 2153
later than eighteen months after the start of the discovery 2154
proceedings unless, for good cause shown, the court extends that 2155
period for completing the discovery. 2156

~~(i)~~ (j) Nothing in division (A) (1) ~~(d)~~ (e) of this section 2157
authorizes, or shall be construed as authorizing, the 2158
relitigation, or discovery in support of relitigation, of any 2159
matter barred by the doctrine of res judicata. 2160

~~(j)~~ (k) Division (A) (1) of this section does not apply to 2161
any person who has been convicted of a criminal offense and 2162
sentenced to death and who has unsuccessfully raised the same 2163
claims in a petition for postconviction relief. 2164

(2) (a) Except as otherwise provided in section 2953.23 of 2165
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 2166
or (iii) of this section shall be filed no later than three 2167
hundred sixty-five days after the date on which the trial 2168
transcript is filed in the court of appeals in the direct appeal 2169
of the judgment of conviction or adjudication or, if the direct 2170
appeal involves a sentence of death, the date on which the trial 2171

transcript is filed in the supreme court. If no appeal is taken, 2172
except as otherwise provided in section 2953.23 of the Revised 2173
Code, the petition shall be filed no later than three hundred 2174
sixty-five days after the expiration of the time for filing the 2175
appeal. 2176

(b) Except as otherwise provided in section 2953.23 of the 2177
Revised Code, a petition under division (A) (1) (a) (iv) of this 2178
section shall be filed not later than three hundred sixty-five 2179
days after the effective date of this amendment. 2180

(3) (a) In a petition filed under division (A) (1) (a) (i), 2181
(ii), or (iii) of this section, a person who has been sentenced 2182
to death may ask the court to render void or voidable the 2183
judgment with respect to the conviction of aggravated murder or 2184
the specification of an aggravating circumstance or the sentence 2185
of death. 2186

(b) A person sentenced to death who files a petition under 2187
division (A) (1) (a) (iv) of this section may ask the court to 2188
render void the sentence of death and to order the resentencing 2189
of the person under division (A) of section 2929.06 of the 2190
Revised Code. If a person sentenced to death files such a 2191
petition and asks the court to render void the sentence of death 2192
and to order the resentencing of the person under division (A) 2193
of section 2929.06 of the Revised Code, the act of filing the 2194
petition constitutes a waiver of any right to be sentenced under 2195
the law that existed at the time the offense was committed and 2196
constitutes consent to be sentenced to life imprisonment without 2197
parole under division (A) of section 2929.06 of the Revised 2198
Code. 2199

(4) A petitioner shall state in the original or amended 2200
petition filed under division (A) of this section all grounds 2201

for relief claimed by the petitioner. Except as provided in 2202
section 2953.23 of the Revised Code, any ground for relief that 2203
is not so stated in the petition is waived. 2204

(5) If the petitioner in a petition filed under division 2205
(A) (1)(a)(i), (ii), or (iii) of this section was convicted of or 2206
pleaded guilty to a felony, the petition may include a claim 2207
that the petitioner was denied the equal protection of the laws 2208
in violation of the Ohio Constitution or the United States 2209
Constitution because the sentence imposed upon the petitioner 2210
for the felony was part of a consistent pattern of disparity in 2211
sentencing by the judge who imposed the sentence, with regard to 2212
the petitioner's race, gender, ethnic background, or religion. 2213
If the supreme court adopts a rule requiring a court of common 2214
pleas to maintain information with regard to an offender's race, 2215
gender, ethnic background, or religion, the supporting evidence 2216
for the petition shall include, but shall not be limited to, a 2217
copy of that type of information relative to the petitioner's 2218
sentence and copies of that type of information relative to 2219
sentences that the same judge imposed upon other persons. 2220

(6) Notwithstanding any law or court rule to the contrary, 2221
there is no limit on the number of pages in, or on the length 2222
of, a petition filed under division (A) (1)(a)(i), (ii), (iii), 2223
or (iv) of this section by a person who has been sentenced to 2224
death. If any court rule specifies a limit on the number of 2225
pages in, or on the length of, a petition filed under division 2226
(A) (1)(a)(i), (ii), (iii), or (iv) of this section or on a 2227
prosecuting attorney's response to such a petition by answer or 2228
motion and a person who has been sentenced to death files a 2229
petition that exceeds the limit specified for the petition, the 2230
prosecuting attorney may respond by an answer or motion that 2231
exceeds the limit specified for the response. 2232

(B) The clerk of the court in which the petition for 2233
postconviction relief and, if applicable, a request for 2234
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of 2235
this section is filed shall docket the petition and the request 2236
and bring them promptly to the attention of the court. The clerk 2237
of the court in which the petition for postconviction relief 2238
and, if applicable, a request for postconviction discovery 2239
described in division (A) (1) ~~(d)~~ (e) of this section is filed 2240
immediately shall forward a copy of the petition and a copy of 2241
the request if filed by the petitioner to the prosecuting 2242
attorney of the county served by the court. If the request for 2243
postconviction discovery is filed by the prosecuting attorney, 2244
the clerk of the court immediately shall forward a copy of the 2245
request to the petitioner or the petitioner's counsel. 2246

(C) If a person who has been sentenced to death and who 2247
files a petition for postconviction relief under division (A) (1) 2248
(a) (i), (ii), (iii), or (iv) of this section requests a 2249
deposition or the prosecuting attorney in the case requests a 2250
deposition, and if the court grants the request under division 2251
(A) (1) ~~(d)~~ (e) of this section, the court shall notify the 2252
petitioner or the petitioner's counsel and the prosecuting 2253
attorney. The deposition shall be conducted pursuant to 2254
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding 2255
division (C) of Criminal Rule 15, the petitioner is not entitled 2256
to attend the deposition. The prosecuting attorney shall be 2257
permitted to attend and participate in any deposition. 2258

(D) The court shall consider a petition that is timely 2259
filed ~~under~~ within the period specified in division (A) (2) of 2260
this section even if a direct appeal of the judgment is pending. 2261
Before granting a hearing on a petition filed under division (A) 2262
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 2263

determine whether there are substantive grounds for relief. In 2264
making such a determination, the court shall consider, in 2265
addition to the petition, the supporting affidavits, and the 2266
documentary evidence, all the files and records pertaining to 2267
the proceedings against the petitioner, including, but not 2268
limited to, the indictment, the court's journal entries, the 2269
journalized records of the clerk of the court, and the court 2270
reporter's transcript. The court reporter's transcript, if 2271
ordered and certified by the court, shall be taxed as court 2272
costs. If the court dismisses the petition, it shall make and 2273
file findings of fact and conclusions of law with respect to 2274
such dismissal. If the petition was filed by a person who has 2275
been sentenced to death, the findings of fact and conclusions of 2276
law shall state specifically the reasons for the dismissal of 2277
the petition and of each claim it contains. 2278

(E) Within ten days after the docketing of the petition, 2279
or within any further time that the court may fix for good cause 2280
shown, the prosecuting attorney shall respond by answer or 2281
motion. Division (A) (6) of this section applies with respect to 2282
the prosecuting attorney's response. Within twenty days from the 2283
date the issues are raised, either party may move for summary 2284
judgment. The right to summary judgment shall appear on the face 2285
of the record. 2286

(F) Unless the petition and the files and records of the 2287
case show the petitioner is not entitled to relief, the court 2288
shall proceed to a prompt hearing on the issues even if a direct 2289
appeal of the case is pending. If the court notifies the parties 2290
that it has found grounds for granting relief, either party may 2291
request an appellate court in which a direct appeal of the 2292
judgment is pending to remand the pending case to the court. 2293

With respect to a petition filed under division (A) (1) (a) 2294
(iv) of this section, the procedures and rules regarding 2295
introduction of evidence and burden of proof at the pretrial 2296
hearing that are set forth in divisions (C), (D), and (F) of 2297
section 2929.025 of the Revised Code apply in considering the 2298
petition. With respect to such a petition, the grounds for 2299
granting relief are that the person has been diagnosed with one 2300
or more of the conditions set forth in division (A) (1) (a) of 2301
section 2929.025 of the Revised Code and that, at the time of 2302
the aggravated murder that was the basis of the sentence of 2303
death, the condition or conditions significantly impaired the 2304
person's capacity in a manner described in division (A) (1) (b) of 2305
that section. 2306

(G) A petitioner who files a petition under division (A) 2307
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the 2308
petition as follows: 2309

(1) If the petition was filed by a person who has been 2310
sentenced to death, at any time that is not later than one 2311
hundred eighty days after the petition is filed, the petitioner 2312
may amend the petition with or without leave or prejudice to the 2313
proceedings. 2314

(2) If division (G) (1) of this section does not apply, at 2315
any time before the answer or motion is filed, the petitioner 2316
may amend the petition with or without leave or prejudice to the 2317
proceedings. 2318

(3) The petitioner may amend the petition with leave of 2319
court at any time after the expiration of the applicable period 2320
specified in division (G) (1) or (2) of this section. 2321

(H) If the court does not find grounds for granting 2322

relief, it shall make and file findings of fact and conclusions 2323
of law and shall enter judgment denying relief on the petition. 2324
If the petition was filed by a person who has been sentenced to 2325
death, the findings of fact and conclusions of law shall state 2326
specifically the reasons for the denial of relief on the 2327
petition and of each claim it contains. If no direct appeal of 2328
the case is pending and the court finds grounds for relief or if 2329
a pending direct appeal of the case has been remanded to the 2330
court pursuant to a request made pursuant to division (F) of 2331
this section and the court finds grounds for granting relief, it 2332
shall make and file findings of fact and conclusions of law and 2333
shall enter a judgment that vacates and sets aside the judgment 2334
in question, and, in the case of a petitioner who is a prisoner 2335
in custody, except as otherwise described in this division, 2336
shall discharge or resentence the petitioner or grant a new 2337
trial as the court determines appropriate. If the court finds 2338
grounds for relief in the case of a petitioner who filed a 2339
petition under division (A) (1) (a) (iv) of this section, the court 2340
shall render void the sentence of death and order the 2341
resentencing of the offender under division (A) of section 2342
2929.06 of the Revised Code. If the petitioner has been 2343
sentenced to death, the findings of fact and conclusions of law 2344
shall state specifically the reasons for the finding of grounds 2345
for granting the relief, with respect to each claim contained in 2346
the petition. The court also may make supplementary orders to 2347
the relief granted, concerning such matters as rearraignment, 2348
retrial, custody, and bail. If the trial court's order granting 2349
the petition is reversed on appeal and if the direct appeal of 2350
the case has been remanded from an appellate court pursuant to a 2351
request under division (F) of this section, the appellate court 2352
reversing the order granting the petition shall notify the 2353
appellate court in which the direct appeal of the case was 2354

pending at the time of the remand of the reversal and remand of 2355
the trial court's order. Upon the reversal and remand of the 2356
trial court's order granting the petition, regardless of whether 2357
notice is sent or received, the direct appeal of the case that 2358
was remanded is reinstated. 2359

(I) Upon the filing of a petition pursuant to division (A) 2360
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 2361
sentenced to death, only the supreme court may stay execution of 2362
the sentence of death. 2363

(J) (1) If a person sentenced to death intends to file a 2364
petition under this section, the court shall appoint counsel to 2365
represent the person upon a finding that the person is indigent 2366
and that the person either accepts the appointment of counsel or 2367
is unable to make a competent decision whether to accept or 2368
reject the appointment of counsel. The court may decline to 2369
appoint counsel for the person only upon a finding, after a 2370
hearing if necessary, that the person rejects the appointment of 2371
counsel and understands the legal consequences of that decision 2372
or upon a finding that the person is not indigent. 2373

(2) The court shall not appoint as counsel under division 2374
(J) (1) of this section an attorney who represented the 2375
petitioner at trial in the case to which the petition relates 2376
unless the person and the attorney expressly request the 2377
appointment. The court shall appoint as counsel under division 2378
(J) (1) of this section only an attorney who is certified under 2379
Rule 20 of the Rules of Superintendence for the Courts of Ohio 2380
to represent indigent defendants charged with or convicted of an 2381
offense for which the death penalty can be or has been imposed. 2382
The ineffectiveness or incompetence of counsel during 2383
proceedings under this section does not constitute grounds for 2384

relief in a proceeding under this section, in an appeal of any 2385
action under this section, or in an application to reopen a 2386
direct appeal. 2387

(3) Division (J) of this section does not preclude 2388
attorneys who represent the state of Ohio from invoking the 2389
provisions of 28 U.S.C. 154 with respect to capital cases that 2390
were pending in federal habeas corpus proceedings prior to July 2391
1, 1996, insofar as the petitioners in those cases were 2392
represented in proceedings under this section by one or more 2393
counsel appointed by the court under this section or section 2394
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 2395
appointed counsel meet the requirements of division (J) (2) of 2396
this section. 2397

(K) Subject to the appeal of a sentence for a felony that 2398
is authorized by section 2953.08 of the Revised Code, the remedy 2399
set forth in this section is the exclusive remedy by which a 2400
person may bring a collateral challenge to the validity of a 2401
conviction or sentence in a criminal case or to the validity of 2402
an adjudication of a child as a delinquent child for the 2403
commission of an act that would be a criminal offense if 2404
committed by an adult or the validity of a related order of 2405
disposition. 2406

Sec. 2953.23. (A) Whether a hearing is or is not held on a 2407
petition filed pursuant to section 2953.21 of the Revised Code, 2408
a court may not entertain a petition filed after the expiration 2409
of the period prescribed in division (A) of that section or a 2410
second petition or successive petitions for similar relief on 2411
behalf of a petitioner unless division (A) (1) or (2) of this 2412
section applies: 2413

(1) Both of the following apply: 2414

(a) Either the petitioner shows that the petitioner was 2415
unavoidably prevented from discovery of the facts upon which the 2416
petitioner must rely to present the claim for relief, or, 2417
subsequent to the period prescribed in division (A) (2) of 2418
section 2953.21 of the Revised Code or to the filing of an 2419
earlier petition, the United States Supreme Court recognized a 2420
new federal or state right that applies retroactively to persons 2421
in the petitioner's situation, and the petition asserts a claim 2422
based on that right. 2423

(b) The petitioner shows by clear and convincing evidence 2424
that, but for constitutional error at trial, no reasonable 2425
factfinder would have found the petitioner guilty of the offense 2426
of which the petitioner was convicted or, if the claim 2427
challenges a sentence of death that, but for constitutional 2428
error at the sentencing hearing, no reasonable factfinder would 2429
have found the petitioner eligible for the death sentence. 2430

(2) The petitioner was convicted of a felony, the 2431
petitioner is an offender for whom DNA testing was performed 2432
under sections 2953.71 to 2953.81 of the Revised Code or under 2433
former section 2953.82 of the Revised Code and analyzed in the 2434
context of and upon consideration of all available admissible 2435
evidence related to the inmate's case as described in division 2436
(D) of section 2953.74 of the Revised Code, and the results of 2437
the DNA testing establish, by clear and convincing evidence, 2438
actual innocence of that felony offense or, if the person was 2439
sentenced to death, establish, by clear and convincing evidence, 2440
actual innocence of the aggravating circumstance or 2441
circumstances the person was found guilty of committing and that 2442
is or are the basis of that sentence of death. 2443

As used in this division, "actual innocence" has the same 2444

meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 2445
Revised Code, and "former section 2953.82 of the Revised Code" 2446
has the same meaning as in division (A) (1) ~~(e)~~ (d) of section 2447
2953.21 of the Revised Code. 2448

(B) An order awarding or denying relief sought in a 2449
petition filed pursuant to section 2953.21 of the Revised Code 2450
is a final judgment and may be appealed pursuant to Chapter 2451
2953. of the Revised Code. 2452

If a petition filed pursuant to section 2953.21 of the 2453
Revised Code by a person who has been sentenced to death is 2454
denied and the person appeals the judgment, notwithstanding any 2455
law or court rule to the contrary, there is no limit on the 2456
number of pages in, or on the length of, a notice of appeal or 2457
briefs related to an appeal filed by the person. If any court 2458
rule specifies a limit on the number of pages in, or on the 2459
length of, a notice of appeal or briefs described in this 2460
division or on a prosecuting attorney's response or briefs with 2461
respect to such an appeal and a person who has been sentenced to 2462
death files a notice of appeal or briefs that exceed the limit 2463
specified for the petition, the prosecuting attorney may file a 2464
response or briefs that exceed the limit specified for the 2465
answer or briefs. 2466

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 2467
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 2468
another section of the Revised Code, other than divisions (B) 2469
and (C) of section 2929.14 of the Revised Code, that authorizes 2470
or requires a specified prison term or a mandatory prison term 2471
for a person who is convicted of or pleads guilty to a felony or 2472
that specifies the manner and place of service of a prison term 2473
or term of imprisonment, the court shall impose a sentence upon 2474

a person who is convicted of or pleads guilty to a violent sex 2475
offense and who also is convicted of or pleads guilty to a 2476
sexually violent predator specification that was included in the 2477
indictment, count in the indictment, or information charging 2478
that offense, and upon a person who is convicted of or pleads 2479
guilty to a designated homicide, assault, or kidnapping offense 2480
and also is convicted of or pleads guilty to both a sexual 2481
motivation specification and a sexually violent predator 2482
specification that were included in the indictment, count in the 2483
indictment, or information charging that offense, as follows: 2484

(1) If the offense for which the sentence is being imposed 2485
is aggravated murder and if the court does not impose upon the 2486
offender a sentence of death, it shall impose upon the offender 2487
a term of life imprisonment without parole. If the court 2488
sentences the offender to death and the sentence of death is 2489
vacated, overturned, or otherwise set aside, the court shall 2490
impose upon the offender a term of life imprisonment without 2491
parole. 2492

(2) If the offense for which the sentence is being imposed 2493
is murder; or if the offense is rape committed in violation of 2494
division (A) (1) (b) of section 2907.02 of the Revised Code when 2495
the offender purposely compelled the victim to submit by force 2496
or threat of force, when the victim was less than ten years of 2497
age, when the offender previously has been convicted of or 2498
pleaded guilty to either rape committed in violation of that 2499
division or a violation of an existing or former law of this 2500
state, another state, or the United States that is substantially 2501
similar to division (A) (1) (b) of section 2907.02 of the Revised 2502
Code, or when the offender during or immediately after the 2503
commission of the rape caused serious physical harm to the 2504
victim; or if the offense is an offense other than aggravated 2505

murder or murder for which a term of life imprisonment may be 2506
imposed, it shall impose upon the offender a term of life 2507
imprisonment without parole. 2508

(3) (a) Except as otherwise provided in division (A) (3) (b), 2509
(c), (d), or (e) or (A) (4) of this section, if the offense for 2510
which the sentence is being imposed is an offense other than 2511
aggravated murder, murder, or rape and other than an offense for 2512
which a term of life imprisonment may be imposed, it shall 2513
impose an indefinite prison term consisting of a minimum term 2514
fixed by the court as described in this division, but not less 2515
than two years, and a maximum term of life imprisonment. Except 2516
as otherwise specified in this division, the minimum term shall 2517
be fixed by the court from among the range of terms available as 2518
a definite term for the offense. If the offense is a felony of 2519
the first or second degree committed on or after ~~the effective~~ 2520
~~date of this amendment~~ March 22, 2019, the minimum term shall be 2521
fixed by the court from among the range of terms available as a 2522
minimum term for the offense under division (A) (1) (a) or (2) (a) 2523
of that section. 2524

(b) Except as otherwise provided in division (A) (4) of 2525
this section, if the offense for which the sentence is being 2526
imposed is kidnapping that is a felony of the first degree, it 2527
shall impose an indefinite prison term as follows: 2528

(i) If the kidnapping is committed on or after January 1, 2529
2008, and the victim of the offense is less than thirteen years 2530
of age, except as otherwise provided in this division, it shall 2531
impose an indefinite prison term consisting of a minimum term of 2532
fifteen years and a maximum term of life imprisonment. If the 2533
kidnapping is committed on or after January 1, 2008, the victim 2534
of the offense is less than thirteen years of age, and the 2535

offender released the victim in a safe place unharmed, it shall 2536
impose an indefinite prison term consisting of a minimum term of 2537
ten years and a maximum term of life imprisonment. 2538

(ii) If the kidnapping is committed prior to January 1, 2539
2008, or division (A) (3) (b) (i) of this section does not apply, 2540
it shall impose an indefinite term consisting of a minimum term 2541
fixed by the court that is not less than ten years and a maximum 2542
term of life imprisonment. 2543

(c) Except as otherwise provided in division (A) (4) of 2544
this section, if the offense for which the sentence is being 2545
imposed is kidnapping that is a felony of the second degree, it 2546
shall impose an indefinite prison term consisting of a minimum 2547
term fixed by the court that is not less than eight years, and a 2548
maximum term of life imprisonment. 2549

(d) Except as otherwise provided in division (A) (4) of 2550
this section, if the offense for which the sentence is being 2551
imposed is rape for which a term of life imprisonment is not 2552
imposed under division (A) (2) of this section or division (B) of 2553
section 2907.02 of the Revised Code, it shall impose an 2554
indefinite prison term as follows: 2555

(i) If the rape is committed on or after January 2, 2007, 2556
in violation of division (A) (1) (b) of section 2907.02 of the 2557
Revised Code, it shall impose an indefinite prison term 2558
consisting of a minimum term of twenty-five years and a maximum 2559
term of life imprisonment. 2560

(ii) If the rape is committed prior to January 2, 2007, or 2561
the rape is committed on or after January 2, 2007, other than in 2562
violation of division (A) (1) (b) of section 2907.02 of the 2563
Revised Code, it shall impose an indefinite prison term 2564

consisting of a minimum term fixed by the court that is not less 2565
than ten years, and a maximum term of life imprisonment. 2566

(e) Except as otherwise provided in division (A) (4) of 2567
this section, if the offense for which sentence is being imposed 2568
is attempted rape, it shall impose an indefinite prison term as 2569
follows: 2570

(i) Except as otherwise provided in division (A) (3) (e) 2571
(ii), (iii), or (iv) of this section, it shall impose an 2572
indefinite prison term pursuant to division (A) (3) (a) of this 2573
section. 2574

(ii) If the attempted rape for which sentence is being 2575
imposed was committed on or after January 2, 2007, and if the 2576
offender also is convicted of or pleads guilty to a 2577
specification of the type described in section 2941.1418 of the 2578
Revised Code, it shall impose an indefinite prison term 2579
consisting of a minimum term of five years and a maximum term of 2580
twenty-five years. 2581

(iii) If the attempted rape for which sentence is being 2582
imposed was committed on or after January 2, 2007, and if the 2583
offender also is convicted of or pleads guilty to a 2584
specification of the type described in section 2941.1419 of the 2585
Revised Code, it shall impose an indefinite prison term 2586
consisting of a minimum term of ten years and a maximum of life 2587
imprisonment. 2588

(iv) If the attempted rape for which sentence is being 2589
imposed was committed on or after January 2, 2007, and if the 2590
offender also is convicted of or pleads guilty to a 2591
specification of the type described in section 2941.1420 of the 2592
Revised Code, it shall impose an indefinite prison term 2593

consisting of a minimum term of fifteen years and a maximum of 2594
life imprisonment. 2595

(4) For any offense for which the sentence is being 2596
imposed, if the offender previously has been convicted of or 2597
pleaded guilty to a violent sex offense and also to a sexually 2598
violent predator specification that was included in the 2599
indictment, count in the indictment, or information charging 2600
that offense, or previously has been convicted of or pleaded 2601
guilty to a designated homicide, assault, or kidnapping offense 2602
and also to both a sexual motivation specification and a 2603
sexually violent predator specification that were included in 2604
the indictment, count in the indictment, or information charging 2605
that offense, it shall impose upon the offender a term of life 2606
imprisonment without parole. 2607

(B) (1) Notwithstanding section 2929.13, division (A) or 2608
(D) of section 2929.14, or another section of the Revised Code 2609
other than division (B) of section 2907.02 or divisions (B) and 2610
(C) of section 2929.14 of the Revised Code that authorizes or 2611
requires a specified prison term or a mandatory prison term for 2612
a person who is convicted of or pleads guilty to a felony or 2613
that specifies the manner and place of service of a prison term 2614
or term of imprisonment, if a person is convicted of or pleads 2615
guilty to a violation of division (A) (1) (b) of section 2907.02 2616
of the Revised Code committed on or after January 2, 2007, if 2617
division (A) of this section does not apply regarding the 2618
person, and if the court does not impose a sentence of life 2619
without parole when authorized pursuant to division (B) of 2620
section 2907.02 of the Revised Code, the court shall impose upon 2621
the person an indefinite prison term consisting of one of the 2622
following: 2623

(a) Except as otherwise required in division (B) (1) (b) or 2624
(c) of this section, a minimum term of ten years and a maximum 2625
term of life imprisonment. 2626

(b) If the victim was less than ten years of age, a 2627
minimum term of fifteen years and a maximum of life 2628
imprisonment. 2629

(c) If the offender purposely compels the victim to submit 2630
by force or threat of force, or if the offender previously has 2631
been convicted of or pleaded guilty to violating division (A) (1) 2632
(b) of section 2907.02 of the Revised Code or to violating an 2633
existing or former law of this state, another state, or the 2634
United States that is substantially similar to division (A) (1) 2635
(b) of that section, or if the offender during or immediately 2636
after the commission of the offense caused serious physical harm 2637
to the victim, a minimum term of twenty-five years and a maximum 2638
of life imprisonment. 2639

(2) Notwithstanding section 2929.13, division (A) or (D) 2640
of section 2929.14, or another section of the Revised Code other 2641
than divisions (B) and (C) of section 2929.14 of the Revised 2642
Code that authorizes or requires a specified prison term or a 2643
mandatory prison term for a person who is convicted of or pleads 2644
guilty to a felony or that specifies the manner and place of 2645
service of a prison term or term of imprisonment and except as 2646
otherwise provided in division (B) of section 2907.02 of the 2647
Revised Code, if a person is convicted of or pleads guilty to 2648
attempted rape committed on or after January 2, 2007, and if 2649
division (A) of this section does not apply regarding the 2650
person, the court shall impose upon the person an indefinite 2651
prison term consisting of one of the following: 2652

(a) If the person also is convicted of or pleads guilty to 2653

a specification of the type described in section 2941.1418 of 2654
the Revised Code, the court shall impose upon the person an 2655
indefinite prison term consisting of a minimum term of five 2656
years and a maximum term of twenty-five years. 2657

(b) If the person also is convicted of or pleads guilty to 2658
a specification of the type described in section 2941.1419 of 2659
the Revised Code, the court shall impose upon the person an 2660
indefinite prison term consisting of a minimum term of ten years 2661
and a maximum term of life imprisonment. 2662

(c) If the person also is convicted of or pleads guilty to 2663
a specification of the type described in section 2941.1420 of 2664
the Revised Code, the court shall impose upon the person an 2665
indefinite prison term consisting of a minimum term of fifteen 2666
years and a maximum term of life imprisonment. 2667

(3) Notwithstanding section 2929.13, division (A) or (D) 2668
of section 2929.14, or another section of the Revised Code other 2669
than divisions (B) and (C) of section 2929.14 of the Revised 2670
Code that authorizes or requires a specified prison term or a 2671
mandatory prison term for a person who is convicted of or pleads 2672
guilty to a felony or that specifies the manner and place of 2673
service of a prison term or term of imprisonment, if a person is 2674
convicted of or pleads guilty to an offense described in 2675
division (B) (3) (a), (b), (c), or (d) of this section committed 2676
on or after January 1, 2008, if the person also is convicted of 2677
or pleads guilty to a sexual motivation specification that was 2678
included in the indictment, count in the indictment, or 2679
information charging that offense, and if division (A) of this 2680
section does not apply regarding the person, the court shall 2681
impose upon the person an indefinite prison term consisting of 2682
one of the following: 2683

(a) An indefinite prison term consisting of a minimum of 2684
ten years and a maximum term of life imprisonment if the offense 2685
for which the sentence is being imposed is kidnapping, the 2686
victim of the offense is less than thirteen years of age, and 2687
the offender released the victim in a safe place unharmed; 2688

(b) An indefinite prison term consisting of a minimum of 2689
fifteen years and a maximum term of life imprisonment if the 2690
offense for which the sentence is being imposed is kidnapping 2691
when the victim of the offense is less than thirteen years of 2692
age and division (B) (3) (a) of this section does not apply; 2693

(c) An indefinite term consisting of a minimum of thirty 2694
years and a maximum term of life imprisonment if the offense for 2695
which the sentence is being imposed is aggravated murder, when 2696
the victim of the offense is less than thirteen years of age, a 2697
sentence of death or life imprisonment without parole is not 2698
imposed for the offense, and division (A) (2) (b) (ii) of section 2699
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 2700
(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 2701
or division (A) or (B) of section 2929.06 of the Revised Code 2702
requires that the sentence for the offense be imposed pursuant 2703
to this division; 2704

(d) An indefinite prison term consisting of a minimum of 2705
thirty years and a maximum term of life imprisonment if the 2706
offense for which the sentence is being imposed is murder when 2707
the victim of the offense is less than thirteen years of age. 2708

(C) (1) If the offender is sentenced to a prison term 2709
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 2710
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 2711
parole board shall have control over the offender's service of 2712
the term during the entire term unless the parole board 2713

terminates its control in accordance with section 2971.04 of the Revised Code.

(2) Except as provided in division (C) (3) of this section, an offender sentenced to a prison term or term of life imprisonment without parole pursuant to division (A) of this section shall serve the entire prison term or term of life imprisonment in a state correctional institution. The offender is not eligible for judicial release under section 2929.20 of the Revised Code.

(3) For a prison term imposed pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the court, in accordance with section 2971.05 of the Revised Code, may terminate the prison term or modify the requirement that the offender serve the entire term in a state correctional institution if all of the following apply:

(a) The offender has served at least the minimum term imposed as part of that prison term.

(b) The parole board, pursuant to section 2971.04 of the Revised Code, has terminated its control over the offender's service of that prison term.

(c) The court has held a hearing and found, by clear and convincing evidence, one of the following:

(i) In the case of termination of the prison term, that the offender is unlikely to commit a sexually violent offense in the future;

(ii) In the case of modification of the requirement, that the offender does not represent a substantial risk of physical harm to others.

(4) An offender who has been sentenced to a term of life imprisonment without parole pursuant to division (A) (1), (2), or (4) of this section shall not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution.

(D) If a court sentences an offender to a prison term or term of life imprisonment without parole pursuant to division (A) of this section and the court also imposes on the offender one or more additional prison terms pursuant to division (B) of section 2929.14 of the Revised Code, all of the additional prison terms shall be served consecutively with, and prior to, the prison term or term of life imprisonment without parole imposed upon the offender pursuant to division (A) of this section.

(E) If the offender is convicted of or pleads guilty to two or more offenses for which a prison term or term of life imprisonment without parole is required to be imposed pursuant to division (A) of this section, divisions (A) to (D) of this section shall be applied for each offense. All minimum terms imposed upon the offender pursuant to division (A) (3) or (B) of this section for those offenses shall be aggregated and served consecutively, as if they were a single minimum term imposed under that division.

(F) (1) If an offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation

specification and a sexually violent predator specification that 2773
were included in the indictment, count in the indictment, or 2774
information charging that offense, the conviction of or plea of 2775
guilty to the offense and the sexually violent predator 2776
specification automatically classifies the offender as a tier 2777
III sex offender/child-victim offender for purposes of Chapter 2778
2950. of the Revised Code. 2779

(2) If an offender is convicted of or pleads guilty to 2780
committing on or after January 2, 2007, a violation of division 2781
(A) (1) (b) of section 2907.02 of the Revised Code and either the 2782
offender is sentenced under section 2971.03 of the Revised Code 2783
or a sentence of life without parole is imposed under division 2784
(B) of section 2907.02 of the Revised Code, the conviction of or 2785
plea of guilty to the offense automatically classifies the 2786
offender as a tier III sex offender/child-victim offender for 2787
purposes of Chapter 2950. of the Revised Code. 2788

(3) If a person is convicted of or pleads guilty to 2789
committing on or after January 2, 2007, attempted rape and also 2790
is convicted of or pleads guilty to a specification of the type 2791
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2792
Revised Code, the conviction of or plea of guilty to the offense 2793
and the specification automatically classify the offender as a 2794
tier III sex offender/child-victim offender for purposes of 2795
Chapter 2950. of the Revised Code. 2796

(4) If a person is convicted of or pleads guilty to one of 2797
the offenses described in division (B) (3) (a), (b), (c), or (d) 2798
of this section and a sexual motivation specification related to 2799
the offense and the victim of the offense is less than thirteen 2800
years of age, the conviction of or plea of guilty to the offense 2801
automatically classifies the offender as a tier III sex 2802

offender/child-victim offender for purposes of Chapter 2950. of 2803
the Revised Code. 2804

Sec. 2971.07. (A) This chapter does not apply to any 2805
offender unless the offender is one of the following: 2806

(1) The offender is convicted of or pleads guilty to a 2807
violent sex offense and also is convicted of or pleads guilty to 2808
a sexually violent predator specification that was included in 2809
the indictment, count in the indictment, or information charging 2810
that offense. 2811

(2) The offender is convicted of or pleads guilty to a 2812
designated homicide, assault, or kidnapping offense and also is 2813
convicted of or pleads guilty to both a sexual motivation 2814
specification and a sexually violent predator specification that 2815
were included in the indictment, count in the indictment, or 2816
information charging that offense. 2817

(3) The offender is convicted of or pleads guilty to a 2818
violation of division (A) (1) (b) of section 2907.02 of the 2819
Revised Code committed on or after January 2, 2007, and the 2820
court does not sentence the offender to a term of life without 2821
parole pursuant to division (B) of section 2907.02 of the 2822
Revised Code or division (B) of that section prohibits the court 2823
from sentencing the offender pursuant to section 2971.03 of the 2824
Revised Code. 2825

(4) The offender is convicted of or pleads guilty to 2826
attempted rape committed on or after January 2, 2007, and also 2827
is convicted of or pleads guilty to a specification of the type 2828
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2829
Revised Code. 2830

(5) The offender is convicted of or pleads guilty to a 2831

violation of section 2905.01 of the Revised Code and also is 2832
convicted of or pleads guilty to a sexual motivation 2833
specification that was included in the indictment, count in the 2834
indictment, or information charging that offense, and that 2835
section requires a court to sentence the offender pursuant to 2836
section 2971.03 of the Revised Code. 2837

(6) The offender is convicted of or pleads guilty to 2838
aggravated murder and also is convicted of or pleads guilty to a 2839
sexual motivation specification that was included in the 2840
indictment, count in the indictment, or information charging 2841
that offense, and division (A) (2) (b) (ii) of section 2929.022, 2842
division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 2843
(3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division 2844
(A) or (B) of section 2929.06 of the Revised Code requires a 2845
court to sentence the offender pursuant to division (B) (3) of 2846
section 2971.03 of the Revised Code. 2847

(7) The offender is convicted of or pleads guilty to 2848
murder and also is convicted of or pleads guilty to a sexual 2849
motivation specification that was included in the indictment, 2850
count in the indictment, or information charging that offense, 2851
and division (B) (2) of section 2929.02 of the Revised Code 2852
requires a court to sentence the offender pursuant to section 2853
2971.03 of the Revised Code. 2854

(B) This chapter does not limit or affect a court in 2855
imposing upon an offender described in divisions (A) (1) to (9) 2856
of this section any financial sanction under section 2929.18 or 2857
any other section of the Revised Code, or, except as 2858
specifically provided in this chapter, any other sanction that 2859
is authorized or required for the offense or violation by any 2860
other provision of law. 2861

(C) If an offender is sentenced to a prison term under 2862
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2863
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2864
Code and if, pursuant to section 2971.05 of the Revised Code, 2865
the court modifies the requirement that the offender serve the 2866
entire prison term in a state correctional institution or places 2867
the offender on conditional release that involves the placement 2868
of the offender under the supervision of the adult parole 2869
authority, authorized field officers of the authority who are 2870
engaged within the scope of their supervisory duties or 2871
responsibilities may search, with or without a warrant, the 2872
person of the offender, the place of residence of the offender, 2873
and a motor vehicle, another item of tangible or intangible 2874
personal property, or any other real property in which the 2875
offender has the express or implied permission of a person with 2876
a right, title, or interest to use, occupy, or possess if the 2877
field officer has reasonable grounds to believe that the 2878
offender is not abiding by the law or otherwise is not complying 2879
with the terms and conditions of the offender's modification or 2880
release. The authority shall provide each offender with a 2881
written notice that informs the offender that authorized field 2882
officers of the authority who are engaged within the scope of 2883
their supervisory duties or responsibilities may conduct those 2884
types of searches during the period of the modification or 2885
release if they have reasonable grounds to believe that the 2886
offender is not abiding by the law or otherwise is not complying 2887
with the terms and conditions of the offender's modification or 2888
release. 2889

Sec. 5120.61. (A) (1) Not later than ninety days after 2890
January 1, 1997, the department of rehabilitation and correction 2891
shall adopt standards that it will use under this section to 2892

assess the following criminal offenders and may periodically 2893
revise the standards: 2894

(a) A criminal offender who is convicted of or pleads 2895
guilty to a violent sex offense or designated homicide, assault, 2896
or kidnapping offense and is adjudicated a sexually violent 2897
predator in relation to that offense; 2898

(b) A criminal offender who is convicted of or pleads 2899
guilty to a violation of division (A) (1) (b) of section 2907.02 2900
of the Revised Code committed on or after January 2, 2007, and 2901
either who is sentenced under section 2971.03 of the Revised 2902
Code or upon whom a sentence of life without parole is imposed 2903
under division (B) of section 2907.02 of the Revised Code; 2904

(c) A criminal offender who is convicted of or pleads 2905
guilty to attempted rape committed on or after January 2, 2007, 2906
and a specification of the type described in section 2941.1418, 2907
2941.1419, or 2941.1420 of the Revised Code; 2908

(d) A criminal offender who is convicted of or pleads 2909
guilty to a violation of section 2905.01 of the Revised Code and 2910
also is convicted of or pleads guilty to a sexual motivation 2911
specification that was included in the indictment, count in the 2912
indictment, or information charging that offense, and who is 2913
sentenced pursuant to section 2971.03 of the Revised Code; 2914

(e) A criminal offender who is convicted of or pleads 2915
guilty to aggravated murder and also is convicted of or pleads 2916
guilty to a sexual motivation specification that was included in 2917
the indictment, count in the indictment, or information charging 2918
that offense, and who pursuant to division (A) (2) (b) (ii) of 2919
section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 2920
(ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1) (d)~~ (E) (1) (a) (iv) of 2921

section 2929.03, or division (A) or (B) of section 2929.06 of 2922
the Revised Code is sentenced pursuant to division (B) (3) of 2923
section 2971.03 of the Revised Code; 2924

(f) A criminal offender who is convicted of or pleads 2925
guilty to murder and also is convicted of or pleads guilty to a 2926
sexual motivation specification that was included in the 2927
indictment, count in the indictment, or information charging 2928
that offense, and who pursuant to division (B) (2) of section 2929
2929.02 of the Revised Code is sentenced pursuant to section 2930
2971.03 of the Revised Code. 2931

(2) When the department is requested by the parole board 2932
or the court to provide a risk assessment report of the offender 2933
under section 2971.04 or 2971.05 of the Revised Code, it shall 2934
assess the offender and complete the assessment as soon as 2935
possible after the offender has commenced serving the prison 2936
term or term of life imprisonment without parole imposed under 2937
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 2938
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2939
Code. Thereafter, the department shall update a risk assessment 2940
report pertaining to an offender as follows: 2941

(a) Periodically, in the discretion of the department, 2942
provided that each report shall be updated no later than two 2943
years after its initial preparation or most recent update; 2944

(b) Upon the request of the parole board for use in 2945
determining pursuant to section 2971.04 of the Revised Code 2946
whether it should terminate its control over an offender's 2947
service of a prison term imposed upon the offender under 2948
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2949
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2950
Code; 2951

- (c) Upon the request of the court. 2952
- (3) After the department of rehabilitation and correction 2953
assesses an offender pursuant to division (A) (2) of this 2954
section, it shall prepare a report that contains its risk 2955
assessment for the offender or, if a risk assessment report 2956
previously has been prepared, it shall update the risk 2957
assessment report. 2958
- (4) The department of rehabilitation and correction shall 2959
provide each risk assessment report that it prepares or updates 2960
pursuant to this section regarding an offender to all of the 2961
following: 2962
- (a) The parole board for its use in determining pursuant 2963
to section 2971.04 of the Revised Code whether it should 2964
terminate its control over an offender's service of a prison 2965
term imposed upon the offender under division (A) (3), (B) (1) (a), 2966
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 2967
(d) of section 2971.03 of the Revised Code, if the parole board 2968
has not terminated its control over the offender; 2969
- (b) The court for use in determining, pursuant to section 2970
2971.05 of the Revised Code, whether to modify the requirement 2971
that the offender serve the entire prison term imposed upon the 2972
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 2973
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2974
2971.03 of the Revised Code in a state correctional institution, 2975
whether to revise any modification previously made, or whether 2976
to terminate the prison term; 2977
- (c) The prosecuting attorney who prosecuted the case, or 2978
the successor in office to that prosecuting attorney; 2979
- (d) The offender. 2980

(B) When the department of rehabilitation and correction
provides a risk assessment report regarding an offender to the
parole board or court pursuant to division (A) (4) (a) or (b) of
this section, the department, prior to the parole board's or
court's hearing, also shall provide to the offender or to the
offender's attorney of record a copy of the report and a copy of
any other relevant documents the department possesses regarding
the offender that the department does not consider to be
confidential.

(C) As used in this section:

(1) "Adjudicated a sexually violent predator" has the same
meaning as in section 2929.01 of the Revised Code, and a person
is "adjudicated a sexually violent predator" in the same manner
and the same circumstances as are described in that section.

(2) "Designated homicide, assault, or kidnapping offense"
and "violent sex offense" have the same meanings as in section
2971.01 of the Revised Code.

Section 2. That existing sections 2929.02, 2929.022,
2929.024, 2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21,
2953.23, 2971.03, 2971.07, and 5120.61 of the Revised Code are
hereby repealed.

Section 3. Notwithstanding section 1.50 of the Revised
Code, if any provision of a section as amended or enacted by
this act is determined to be unconstitutional or otherwise
invalid in a final judgment by a court of last resort, the
remainder of the enactments and amendments made in Section 1 of
this act are void.

Section 4. Section 2929.14 of the Revised Code is
presented in this act as a composite of the section as amended

by H.B. 63, S.B. 1, S.B. 20, and S.B. 201, all of the 132nd 3010
General Assembly. The General Assembly, applying the principle 3011
stated in division (B) of section 1.52 of the Revised Code that 3012
amendments are to be harmonized if reasonably capable of 3013
simultaneous operation, finds that the composite is the 3014
resulting version of the section in effect prior to the 3015
effective date of the section as presented in this act. 3016